SUPREME COURT OF THE UNITED STATES.

No. ~~280.~~ 153.

THE UNITED STATES, APPELLANTS,

vs.

BARBARA SOTO ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DIST. OF CAL'A.

GOVERNMENT PRINTING OFFICE.

SUPREME COURT OF THE UNITED STATES.

No. 280.

THE UNITED STATES, APPELLANTS,

vs.

BARBARA SOTO ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DIST. OF CAL'A.

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BARBARA SOTO *et al.*, claimants,
vs.
THE UNITED STATES, defendants, for the place named San Lorenzo.

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Index to proceedings before the board of land comm'rs.

3 OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this twenty-second day of January, anno Domini one thousand eight hundred and fifty-three, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Fancisco in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Barbara Soto *et al.* for the place named "San Lorenzo," was presented, and ordered to be filed and docketed with No. 524, and is as follows, to wit:

(Vide page 5 of this transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *February* 11, 1855.

In case No. 524, Barbara Soto *et al.* for the place named "San Lorenzo," the deposition of Guillermo Castro, a witness on behalf of the claimants, taken before Commissioner Hiland Hall, with
4 documents marked H. H., Nos. 1 and 2 annexed thereto, was filed.

(Vide page 7 of this transcript.)

SAN FRANCISCO, *February* 18, 1854.

In the same case the depositions of Juan B. Alvarado, Joaquin Castro, and Wm. H. Davis, witnesses in behalf of claimants, taken before commissioner Alpheus Felch, were filed.

(Vide pages 8, 10, and 11 of this transcript.)

SAN FRANCISCO, *June* 12, 1854.

In the same case the deposition of Antonio Maria Pico, a witness in behalf of the claimants, taken before Commissioner Peter Lott, was filed, with documents marked "Exhibit A, P," annexed thereto.

(Vide page 46 of this transcript.)

SAN FRANCISCO, *November* 17, 1854.

In the same case the depositions of Joel Russell and John J. H. Grammont, witnesses in behalf of the United States, taken before Commissioner Peter Lott, the last, with documents marked "Exhibits A. B. C. and D., P. L." annexed thereto, were filed.

(Vide pages 14 and 19 of this transcript.)

5 SAN FRANCISCO, *November* 3*d*, 1854.

In the same case the deposition of H. A. Higley, a witness in behalf of claimants, taken before Commissioner R. Aug. Thompson, with documents marked "R. T., No. 1, 2 and 3," (No. 2 being a large map) annexed thereto, was filed.

(Vide page 35 of this transcript.)

SAN FRANCISCO, *December* 2, 1854.

In the same case the deposition of Guillermo Castro, a witness in behalf of the claimants, taken before Commissioner Alpheus Felch, was filed.

(Vide page 41 of this transcript.)

SAN FRANCISCO, *December* 5, 1854.

Case No. 524 was ordered to be placed at the foot of the 3d class cases on the trial docket.

SAN FRANCISCO, *December* 19, 1854.

Case No. 524 was submitted on briefs, and taken under advisement by the board.

In the same case the counsel for the claimants filed the following bill of exceptions, to wit:

(Vide page 120 of this transcript.)

6 SAN FRANCISCO, *April* 24, 1855.

In the same case Commissioner S. B. Farwell delivered the opinion of the board, confirming the claim.

(Vide page 121 of this transcript.)

And the following order was made, to wit:

(Vide page 124 of this transcript.)

SAN FRANCISCO, *May* 1, 1855.

In the same case the counsel for the claimants moved to amend the decree of confirmation heretofore, to wit: on the 24th April last entered in this case, upon the facts set forth in the following affidavit, to wit, (vide page 119 of this transcript,) which motion was granted; whereupon it was ordered that the decree aforesaid be amended in accordance with the affidavit.

Petition.

Before the commission to ascertain and settle private land claims in California.

Barbara Soto, Anita Soto, Francisca Soto, Encarnacion Soto, Margarita Soto, Vicente Soto, Jesus Maria Soto, and Mariano Soto give notice that they claim a tract in said State by virtue
7 of a right and title derived from the Mexican government. Said land is situated in the county of Contra Costa, in the tract known by the name of San Lorenzo, being bounded on the north by the creek of that name. It is of one and a half square leagues by said creek of San Lorenzo on the north, by the bay of San Francisco on the west; on the south, by an ascertained line with the lands of Jesus Vallejo; on the east, by the crest of the range of hills and an ascertained line with the lands of Guillermo Castro. A portion of said lands, to wit: one league, or sitio thereof, a little more or less, was granted to Francisco Soto, on the 16th of October, 1842, by D'n Juan B. Alvarado, constitutional governor of California, and the remainder thereof, to wit: the additional quantity of one half league, or sitio, was granted on the 20th January, 1844, to the same grantee, by D'n Manuel Micheltorena, then governor of California. Said Francisco Soto died prior to the filing of this petition, and about seven years ago, leaving the said D'a Barbara, his widow, and the said other claimants, his children and only heirs; the said land
8 having been acquired by said grantee during his coverture with the said D'a Barbara; whereby one undivided half part vested in her (said D'a Barbara) and the remainder has descended to the said children. There is no conflicting claim to said land, or any part thereof, on the knowledge of the claimants. The original of said grants, with a translation of the same, is herewith presented. The said land has been occupied and inhabited according to law.

By their att'ys: JONES, TOMPKINS and STRODE.

Filed in office, Jan'y 22d, 1853.

GEO. FISHER, *Sec'y.*

Recorded in vol. 1 of petitions, on pages 491, 492.

Dep. of Guillermo Castro.

SAN FRANCISCO, *Feb'y* 11, 1853.

On this day, before Comm'r Hiland Hall, came Guillermo Castro, a witness in behalf of the claimant, Barbara Soto *et al.*, petition No. 524, and was duly sworn, his evidence being interpreted by the secretary.

9 The U. S. associate law agent was present.

In answer to inquiries by counsel for the claimants, the witness testified as follows:

My name is Guillermo Castro; my age is forty-four years; and I reside on my rancho in Contra Costa county.

I was acquainted with Francisco Soto, who died about seven years ago. He left a widow named Barbara Castro and seven children—three sons and four daughters.

The names of the sons were Vicente, Jesus Maria, and Mariano; and of the daughters Anita, Francisco, and Encarnacion. The name of the other daughters I do not recollect.

Francisco Soto received a grant from Governor Alvarado, in the year 1842, of the tract of land called San Lorenzo, situated in the present county of Contra Costa, and bordering on the bay. Afterwards Soto received another grant in augmentation of the former tract. He built a house on said augmentation, cultivated a garden, had an orchard, and kept cattle on it. He commenced such occupation previous to the date of the grant of it, and continued it until his decease, and since that time, it has been occupied
10 by his widows and children.

I am acquainted with the handwriting and signatures of Antonio Mea Osio, Juan B. Alvarado, Manuel Jimeno, and Manuel Micheltorena, and I believe their signatures, which appear on a paper now shown me, which is hereto attached and marked H. H. No. 1, and is Exhibit A filed in this case, to be genuine.

I am also acquainted with the handwriting and signatures of Francisco Soto, Manuel Jimeno, and Manuel Micheltorena, and believe their signatures on a paper now shown me, which is Exhibit B filed in this case, and is hereto annexed and marked H. H. No. 2, to be genuine.

GUILLERMO CASTRO.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office Feb'y 11, 1853.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B, vol. 2, p. 556.

GEO. FISHER, *Sec'y.*

11 *Dep. of W. H. Davis.*

UNITED STATES LAND COMMISSION,
San Francisco, Feb. 18, 1854.

On this day, before Commissioner Alpheus Felch, came William H. Davis, a witness in behalf of claimants, Barbara Soto *et al.*, case No. 524, who, after being duly sworn, deposed as follows:

Questions by Judge Thornton, att'y for claimants.

1st question. Please state your name, age, and place of residence.

Answer. My name is William H. Davis; my age is thirty-two years; and my residence San Leandro, in Alameda county, California.

2d question. Are you acquainted with the rancho San Lorenzo, claimed in this case, and did you know the grantee, Francisco Soto?

Answer. I have known said rancho since the month of May, 1843, and I knew said Soto from 1838 until the time of his death.

3d question. Please state what you know of the occupation of said rancho from the time you first knew it until the present time.

12 Answer. I was first on the place in May, 1843. Francisco Soto was then in possession of it, and had an adobe house, a corral, cattle, and horses on it. I was then a merchant in San Francisco, and Soto was in the habit of buying goods of me, and I was afterwards frequently at his place. His family lived there when I first knew the rancho, and have continued to reside there to the present time.

4th question. Do you know the boundaries of this rancho?

Answer. I know them as they generally reputed among the neighboring rancheros, and respected by them: on the north the creek of San Lorenzo, on the west the bay of San Francisco, on the south the rancho of José Jesus Vallejo, and on the east the foot of the San Lorenzo hills. Within these boundaries there are about six hundred varas of land, which belong to William Castro, which are situated near the foot of the hills and on the eastern line.

Questions by Mr. McKune, law agent.

13 1st question. Is there any line of demarcation between this and Castro's rancho on the eastern side of Soto's rancho?

Answer. I do not know that there is, excepting at the six hundred vara lot of said William Castro, before mentioned.

2d question. What is the character of the hills forming the eastern boundary?

Answer. Some of them rise abruptly, and others are more sloping. The line of them would not be straight. The general direction of the hills is north and south, but the foot would not be a straight line.

WILLIAM H. DAVIS.

Subscribed and sworn to before me this 18th day of February, 1854.

ALPHEUS FELCH,
Commissioner.

Filed in office Feb'y 18, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B, vol. 3, p. 725.

GEO. FISHER, *Sec'y.*

14 *Dep. of Juan B. Alvarado.*

UNITED STATES LAND COMMISSION,
San Francisco, Feb. 18, 1854.

On this day, before Commissioner Alpheus Felch, came Juan B. Alvarado, a witness in behalf of the claimants, Barbara Soto *et al.*, No. 524, who, after being duly sworn, deposes as follows, his evidence being interpreted by the secretary:

Questions by Judge Thornton, att'y for claimant.

1st question. Please state your name, age, and place of residence.

Answer. My name is Juan B. Alvarado; my age forty-four years; and I reside in Contra Costa county, California.

2d question. Please look on the document now here shown to you, purporting to be a grant to Francisco Soto, marked "H. H. No. 1," annexed to the deposition of G. Castro, heretofore taken and filed in this case, and state whether you are acquainted with the handwriting of Antonio Maria Osio, Juan B. Alvarado, Manual Jimeno, and
15 Manuel Micheltorena; and if yea, state whether the signatures purporting to be theirs on said document are their true and genuine signatures, respectively.

Answer. I have examined said document. I know the handwriting of the said persons named in the question, and have seen each of them write, and the said signatures are their true and genuine signatures in their own handwriting. My own signature on said document is genuine.

3 question. Look on the document now here shown to you, marked "H. H. No. 2," annexed to the deposition of G. Castro heretofore taken in this case, purporting to be a petition of Francisco Soto, and a concession by Governor Micheltorena, and a report by Manuel Jimeno, and state whether you are acquainted with the handwriting of Francisco Soto, Manuel Jimeno, and Manuel Micheltorena; and if yea, state whether the signatures on said document *whether the signatures on said document* wherever they occur are their true and genuine signatures.

Answer. I have examined said document. I am acquainted with the handwriting of said Soto, Micheltorena, and Jimeno, and
16 have seen each of them write; and the signatures purporting to be theirs on said document I believe to be their several, true, and genuine signatures.

JUAN B. ALVARADO.

Mr. McKune, law agent, was present at the taking of this deposition, but propounded no questions.

Subscribed and sworn to before me, this 18th day of February, 1854.

ALPHEUS FELCH, *Commissioner.*

Filed in office Feb. 18, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B, vol. 3, p. 721.

GEO. FISHER, *Sec'y.*

Dep. of Joaquin Castro.

UNITED STATES LAND COMMISSION,
San Francisco, Feb. 18, 1854.

On this day, before Commissioner Alpheus Felch, came Joaquin Castro, a witness in behalf of claimants, Barbara Soto *et al.*, case No. 524, who, after being duly sworn, deposed as follows, his evidence being interpreted by the secretary.

17 *Questions by Judge Thornton, att'y for claimant.*

1 question. What are your name, age, and place of residence?

Answer. My name is Joaquin Castro; my age is forty-four years; and I reside at Contra Costa, in California.

2 question. Are you acquainted with the rancho called San Lorenzo, claimed in this case? If yea, state what you know of its occupation and boundaries.

Answer. I am acquainted with that rancho. When I first knew it to be occupied, which was in 1825, it was occupied by the mission of San José. In 1843 I passed through the place, and it was then occupied by Francisco Soto. This was in the month of May. Soto then had a house on it, which was built of adobes, and was living in the house. He continued to live on the place until his death, and after his death his family continued to live there to the present time, and still live there. They have had cattle and corrals there, and have cultivated a portion of the land ever since 1843. The house in which they have lived during all that time is on the part of the rancho which was granted by the first grant. They
18 built a new house after Soto died, which was on the same portion of the rancho.

Said rancho is bounded by the coast of the bay of San Francisco on one side; by the arroyo de San Lorenzo on another side; on another, by the foot of the mountains (Sierra del Palo Colorado) which run towards Jan José as far as the arroyo to del Alto or Loma de San Lorenzo; and on the fourth side by that arroyo to where it sinks on the plain near the rodeo; and thence by the rodeo, by a direct line, to the beach. In the corner which is formed by the arroyo de San Lorenzo and the Sierra del Palo Colorado, there is a piece of land which belongs to Guillermo Castro, and is about six hundred varas in extent towards the beach, and commencing at a ditch about two hundred varas from the house of Soto, and extending to the arroyo de San Lorenzo.

3 question. Does the description above given comprehend the land comprised in the original grant, or both that and the grant of an extension.

19 Answer. Both. I think there is about a league and a half of land.

4 question. Are you acquainted with the children and heirs of Francisco Soto, deceased?

Answer. I know the older ones of them.

5 question. Please state the names of his daughters.

Answer. The eldest is named Anne Maria; the second, Francisca; the third, Incarnacion; the fourth, I believe, is Trinidad. These are all that I know of them. I am not positive as to the name of the fourth. The eldest is sometimes called Anita.

Questions by Mr. McKune, law agent.

1 question. How near said rancho do you live, and how long have you resided there?

Answer. I live ten leagues from it, where I have been living twenty-nine years.

2 question. When did you first know Soto?

Answer. I believe it was in 1818; we were schoolmates at the presidio of San Francisco.

3 question. When did you first know the rancho San Lorenzo?

20 Answer. In 1812. It was then called by the same name.

4 question. What improvement had the mission on it in 1825?

Answer. There were Indian huts on it, and they had mission cattle and sheep on it, and some of the Indians had small pieces on cultivation.

5 question. How do you know that the rancho extends only to the foot of the Sierra del Palo Colorado?

Answer. Because they have told me so. I have not seen any landmark, and believe if there was one there I might have seen it.

6 question. Is there any rancho adjoining this on the side towards the east or northeast?

Answer. There is; the rancho of Guillermo Castro, which is on the side of the Sierra del Palo Colorado.

Questions by Judge Thornton.

21 1 question. When was you first informed of the boundaries of this rancho?

Answer. In 1842. I saw the boundaries designated in the espediente which was sent to me to make a report whether the land was occupied by the mission or not. I was then administrator of that mission and was required to report in that capacity.

2 question. Might there not have been landmarks put up around those boundaries, and you never have seen or known them?

Answer. There might have been.

JOAQUIN Y. CASTRO.

Subscribed and sworn to before me this 18th day of February, 1854.

ALPHEUS FELCH,
Commissioner.

Filed in office Feb. 18, 1854.

GEO. FISHER, *Sec'y.*

Dep. of Joel Russel.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *Nov.* 16, 1864.

This day came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners
22 in said State, Joel Russel, a witness on behalf of the United States in case No. 524, wherein Barbara Soto *et al.* are claimants; and said witness being sworn, deposes as follows:

Questions by U. S. law agent.

1st question. What is your name, age, and place of residence?

Answer. My name is Joel Russel; my age 32 years; my residence in Alameda county, California.

2nd question. How long have you resided there?

Answer. I have lived in the county nearly three years.

3rd question. Was you present when the witness Grammont surveyed the south line H to J, as shown by his map on file in this case, marked "A, P. L."?

Answer. I was present at said survey when part of said line was run.

4th question. State what you know, if anything, about the flag-staff spoken of by said Grammont standing on a rodeo, or on land
23 which had formerly used as a rodeo.

Answer. I know where the flag-staff was set, and believe it to be on ground which had been used as a rodeo, from the fact that it bears unmistakable marks of having been used for that purpose. It is tramped more than land generally is by herds of cattle, and from the ground having been dug it produces a different growth of weeds and herbage from the surrounding lands. The ground when I first saw it had holes about on it which appeared to have been pawed up by the cattle, usually called bull-holes. The land has now been cultivated one year. I saw it a year before it was cultivated and noticed the peculiarity of that piece of ground before I ever heard it was a boundary of any claim.

Cross-examined by claimant's counsel.

1 question. Do you reside on the land claimed in this case; if yea, what claim do you set up to the land?

Answer. I cannot say under oath whether I live on the land claimed or not.

24 2 question. Point out in the map marked "A, P. L." and filed in this case, the spot where you live, as near as you can.

Answer. As near as I can tell I live at the place marked "Y" on said map, south of the words "vacant land."

3rd question. State what title you claim to have to the land on which you reside.

Answer. I entered upon the land and fulfilled the requisition of the statute of California in order to secure a possessory title to the land. I have no other claim.

4th question. Do you expect to hold this land under the pre-emption laws of the United States.

(4th question objected to by U. S. law agent.)

Ans. I never have depended on that as a means of title there.

5th question. If the land upon which you reside should prove to be vacant and public land of the United States would you perfect your pre-emption to it under the laws of the United States?

25 Answer. If I were on the land and wanted land, and could perfect a title to it, I would do so under said pre-emption laws.

6th question. If this land were now at this time ascertained to be public land what steps would you take to secure your title to it? Would you secure your pre-emption of the U. S?

(6th question objected to as leading.)

Answer. I believe that I could not, as I have parted with the actual residence on the land for one year beginning last month. I live there on the house, but do not pretend to hold the possession or occupancy of the place.

7th question. Do you claim any interest in the land now; if yea, what is it?

Answer. I do claim thus far, that it is to be delivered up to me at the expiration of the year, which I before mentioned. I claim under the State possessory act 160 acres.

8th question. Supposing that 160 acres to be included within the boundaries of the land claimed in this case, would you expect

26 to derive any advantage from the rejection of this claim?

Answer. If I had possession of it at the time of the rejection of this claim the land would be worth more to me.

9th question. Do you expect at the expiration of said year to regain possession of this land, and in the event of the rejection of this claim to continue that possession?

Answer. I do expect to regain my possession at the end of said year. I cannot tell whether I expect to continue it in case of the rejection of this or not. I am uncertain as to my future residence in California.

10th question. If this claim were rejected by this board, supposing your 160 acres to be included in it, would you consider such rejection as enuring to your benefit?

Answer. Yes; I believe it would be to my benefit if my 160 acres *is* within said claim and said claim should be rejected.

27 11th question. Were there any other signs of another old rodeo near where the said flag-staff was set than those you have mentioned?

Answer. I have never noticed such; there are places where the ground appears to have been marked by cattle over a space of three or four acres, but nowhere so distinctly marked as around the spot where the flag-staff stood.

12th Question. Where you ever on what you knew to be a rodeo ground?

Answer. I have been on places where cattle have been herded, and noticed their marks upon the ground. If I understand the meaning of the Spanish word "rodeo," I have often been on rodeo grounds. I understand the Spanish word to mean the collection of cattle in large numbers, for the purposes of branding, dividing the stock of different owners, and the like. I have often seen them collected for the purposes I have mentioned.

JOEL RUSSELL.

Subscribed and sworn to before me on this 16th day of November, A. D. 1854.

PETER LOTT, *Commissioner.*

28 The claimant's counsel objects to this deposition, on the ground of the interest of the witness.

PETER LOTT, *Com'r.*

Filed in office, Nov. 17, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B, vol. 5, p. 679.

GEO. FISHER, *Sec'y.*

Dep. of J. I. H. Grammont.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *Nov.* 15, 1854.

This day came before Peter Lott, commissioner, for taking testimony to be used before the board of U. S. land comm'rs in said State, John I. H. Grammont, a witness on behalf of the United States in case No. 524 on the docket of said board, wherein Barbara Soto *et al.* are claimants; and said witness being duly sworn, deposed as follows:

J. J. Williams, esq'r., appears for claimant.

Questions by Mr. Crane and L. Aldridge, who represent the
29 *U. S. law agent.*

1st question. What is your name, age, and residence?

Answer. My name is John I. H. Grammont; my age 43 years; my residence in the county of Alameda, State of California.

2d question. State whether you are a surveyor, and if yea, whether you have recently made a survey of the territory in Alameda county, lying between the San Lorenzo and Alto creeks and the mountains and bay of San Francisco.

Answer. I am a surveyor, and I have recently surveyed the section of country described in the interrogatory.

3d question. Look at the map now shown to you, marked "A, P. L.," exhibited in this deposition, and state whether it is the map made by you of said survey, and also whether it is a correct delinea-

tion of the tract surveyed, and of the relative distances and position of natural objects therein represented.

Answer. This is the map made by me of the survey of the
30 tract mentioned, and represented in said map, and it is a correct delineation of the tract represented as near I could make it.

4th question. Had you any papers by which you determined the mountain or eastern line of said tract; if yea, in what language were they written, and produce them ?

Answer. I had a copy of a grant made to Francisco Soto in 1842, and an agreement between Carlos Castro as agent for his son, William Castro, and Francisco Soto, which settled the boundary of their land on the 17th of January, 1844. These documents were written in the Spanish language. I here produce the copy of the agreement marked "A, P. L.," exhibited in this deposition. The copy of the grant I have not here with me.

5th question. Are you familiar with the Spanish language ? if yea, state whether you have made translations of the documents mentioned in your last answer, and if yea, produce them.

Answer. I am well acquainted with the Spanish language, and I have made a translation of the agreement spoken of, and
31 it is here produced marked "C, P. L.," and exhibited in this deposition.

6th question. State why you locate the eastern line of said map as you have done ?

Answer. I have so located said line because, in terms, the grant called for it, to wit : it called for a line from the San Lorenzo to the Alto creek. From the terms of description in the grant, I understand the point of beginning to be where the first cuchilla strikes the San Lorenzo, and I run the eastern line in a direct course southeasterly to a large pile of rocks. The grant called for the line to run to the alto, the possession of Jesus Vallejo, and there near the headwaters of the alto, between two of its head streams, I found a pile of rocks partly natural, and a pile artificially put on the top of it. I made that pile of stones the southernmost point of said eastern boundary. The pile of stones is about seven feet high, and overgrown with vines, and having the appearance of being an old land-mark. It is just at the headwaters of the Alto creek.

32 7th question. State now whether you knew of the existence of said monument, or pile of stones before you found it in the course of your survey.

Answer. I had no knowledge of it till in running to the Alto creek, in my survey, I found it.

8th question. Had you with you when making said survey what purported to be a copy of a map of any adjacent rancho? if yea, produce it.

(8th question objected to by claimant's counsel, as irrelevant and incompetent.)

Answer. I had with me what purported to be a survey made in 1842,

for Jesus José Vallejo, and I here produce it marked "D, P. L.," exhibit to this deposition.

9th question. State whether you have correctly laid down upon the map of your survey the northerly boundary of said Vallejo ranch as shown by said map.

Answer. I laid it down as correctly as I could from that map. The yellow line on my map represents the line of Vallejo's boun-
33 dary, as represented on the map marked "D, P. L."

10th question. In running the line, as shown upon your map "A, P. L.," from "H" to "J," state by what object, if any, you were guided as an intermediate point.

(10th question objected to by claimant's counsel, the answer being incompetent.)

Answer. I was guided in running that line by a flag on a flag-staff, which I was told was on the rodeo ground. I only know this from being told so. The point is marked "X," in red ink, on the southern part of my map.

11th question. After reaching the bay at the point where said southern boundary touches it, where are the first hills, as seen from that point, on the San Lorenzo creek?

Answer. The first hills in view from that point are at the place, in said map, marked "Hayward's house, on the San Lorenzo.

12th question. What do you understand by the word
34 "cuchilla," as used in the grant in this case?

Answer. I understand it to be a sharp, steep mountain ridge. It is a term well known and in use in Mexico. A ridge which divides the waters running in opposite directions.

13th question. Can you describe what you understand to be the southern boundary of the rancho claimed in this case?

Answer. I consider the southern boundary of Francisco Soto's survey to start from a pile of rock on the headwaters of the Alto creek, marked on my map "B," thence following the northern boundary of said Vallejo's survey to "C," at the salt marsh. This line is indicated on my map by yellow coloring. The point "C" is exactly on Vallejo's line, but the yellow line would come a little within the direct red line at some places, according to the survey of Vallejo, which is exhibited herein and referred to by me in a former answer.

Cross-examined by claimant's counsel.

35 1st question. How long have you resided in California?

Answer. Since September, 1850.

2d question. Where do you now reside?

Answer. In Alameda county, on the tract of country called the San Lorenzo tract. The spot of my residence, as near as I can fix it, is at the letter "M," which I have marked on my map, in this case, near the words "vacant land."

3d question. Is your present residence within the boundary of the lands claimed in this case?

Answer. I have understood from rumor that the claimants in this

case do claim the land on which I live, but I do not know the exact boundary of what is claimed in this case.

4th question. Have you any claim to the land on which you reside? If yea, state the character of your claim.

Answer. I claim it as a settle on public lands, with the right of a pre-emption of lands of the United States. I have no other claim whatever to it.

36 5th question. How far is the point at which you reside south of the San Lorenzo creek, west of the "Casa de Guillermo Castro," as marked on the map, east of the bay of San Francisco, and north of the Vallejo line, as indicated in your map?

Answer. I believe it is about 1½ mile, 1¼ mile, south of the San Lorenzo, about 2 miles west of said "Castro's" house, about 2 miles north of the northern boundary of said Vallejo's survey, and about 2 miles east of the salt marsh, on the shores of the bay of San Francisco.

6th question. To whom is the land on which you reside assessed for taxes, and who pays the taxes on it?

Answer. I do not know to whom the land is assessed. I pay the taxes on the improvements.

(Judge Crane, who is acting in this examination for the U. S. law agent, admits that the land where witness resides is assessed for taxes to Barbara Soto, Mowrey W. Smith, and Lewis Brady.)

37 7th question. At whose instance did you make this survey of which you have testified?

Answer. At the instance of the settlers on the land, who claim as pre-emptors of the U. S. government.

8th question. Give the names of such as you recollect.

Answer. Judge Crane, William C. Blackburn, Mr. Fleming; these were the prin ipal ones, and one Nelson Winton. These paid me for making the survey. There were several others who have spoken to me about it, whose names I do not recollect.

9th question. Who was with you assisting and advising in making your survey in this case?

Answer. There were different persons who assisted in the labor of said survey, and I was governed by the papers. One man who was with me was named Lark; one called Aleck; also hired Blackwood Russell; another, Dick Blackwood; that is about all. The papers were given to me, and I aimed to follow them without

38 taking anybody's advice.

10th question. Do you mean to say that no one advised with you in regard to course and distance and carriers in making said survey?

Answer. I mean to say I followed no advice, but was governed by the papers. Various persons spoke to me about the survey, some said one thing and some said another; for instance, they pointed out where the rodeo ground was. Mr. Blackwood spoke to me and others.

11th question. Whom did you consult in regard to the proper mode of running these lines?

Answer. I consulted nobody.

12th question. With whom did you converse with regard to the running of these lines before, at the time, and after making said survey?

Answer. I conversed with the Blackwoods, Fleming, the Wintons, Russell, McDonald, and Judge Crane, and probably several others.

13th question. In whose handwriting is the translation of
39 the agreement, marked "C, P. L.," exhibited in this deposition.

Answer. It is in my own handwriting.

14th question. Were not all the persons whom you have above named as aiding, assisting, counselling, and advising, settlers on the land, and claiming the same rights as yourself?

Answer. I believe all those I have named are settlers on the ground, except "Aleck" and "Lark," the two hired men named; they were chain-bearers.

15th question. In making this survey did you consult any of the old inhabitants or old settlers of this country, or any of the owners of adjoining ranchos?

Answer. I asked only Ensena, the son-in-law of the widow Soto, if he knew where the rodeo ground was. His answer was that he did not know where it was. Further than that I consulted with none of them. Enseno from Buenos Ayres, and has been but a short time in this country.

16th question. From whom did you obtain the copies by
40 which you say you were guided in this survey?

Answer. I obtained the copy of the original grant from the office of the U. S. land commissioners several months ago. It was sent to me by George Fleming. The copy of the agreement I obtained in the same way, and through the same hands.

17th question. Since you have been in California, how many tracts of land have you surveyed?

Answer. I believe I have made but three surveys besides this in California. I do not follow surveying as a business here, though I am a surveyor by profession, and have followed it most of my life.

18th question. Who made the map, marked "A, P. L.," which is exhibited herein as the map of your said survey?

Answer. I made it myself. I was assisted in the coloring and shading by another person.

19th question. Who performed the mechanical work of this map; was it not Eugene Hessey?

41 Answer. A draughtsman did it under my direction. It is an exact copy of the original map in lead pencil which I made and have in my possession.

20th question. Was not every line, letter, shade, and figure on this map placed there by said draughtsman?

Answer. Yes; I believe they were.

21st question. When you said this was an exact copy of the original in your possession, do you mean that the two maps are identically the same, or only as to course and distance?

Answer. All the courses, distances, and streams are precisely alike and in the same places; all the hills, their appearance are the same, and on the same scale.

22d question. When did you first see the original grant in this case?

Answer. About a year ago last September.

23d question. How often have you seen it since that time until you came here to give this deposition?

42 Answer. I have never seen it till now since September, 1853.

24th question. Did you ever compare the copy which you had closely and minutely with this original?

Answer. I never did.

25th question. How, then, do you know that the copy which you had was an accurate copy of the original document filed in this case?

Answer. I only know it from presumption. Judge Crane handed me several papers, and Mr. Fleming sent me some of them, purported to be certified copies, and some did not. I do not know whether the copy of the grant was certified or not; my impression is that it was not certified.

26th question. Is the note which you have appended to your translation of the agreement, between Soto and Castro, found in the original?

Answer. The certified copy of the original, which I have exhibited, "B. P. L.," contained no such note; it is my own.

43 27th question. Is the pile of at which you commenced, on the headwaters of the Alto, a natural or artificial landmark?

Answer. The natural rock is about 2½ feet high, and it is raised by artificial piling to the height of seven feet. It is on the form of a pyramid, with a base 4½ feet wide. The rocks which are piled up have vines growing among them, showing that it is an old monument.

28th question. Did you inquire of any of the old inhabitants, neighbors, or native Californians, by whom that pile of rocks was placed, and for what purpose?

Answer. I never did.

29th question. If you had not discovered that pile of rocks, to what point on the arroyo del Alto would you have let fall the southern point of the eastern line of your survey?

Answer. I should have fixed it at the same place. My object was to reach the head of the Alto, and in running the line and establishing that point I found said pile of rocks.

44 30th question. Why was it that you determined to corner at the head of the Alto?

Answer. The call of the grant being from the San Lorenzo to the Alto, the possession of Jesus Vallejo. I supposed that point to answer the call of the grant.

31st question. Had you let fall that line to the point on the Alto, where is written in your map, would it not have been equally a line from the San Lorenzo to the arroyo del Alto, the possession of Vallejo?

Answer. In striking the Alto at that point I would have been

obliged to cross the north boundary line of Vallejo to reach the Alto, Vallejo's boundary embracing a strip of land on the north side of the Alto, and it would have been the same with respect to Vallejo's northern boundary. If I had struck the Alto at any other point than the one I did at the pile of rocks, any other point would not answer the call of the grant.

32d question. In the explanation which you desired to make
45 of the southern boundary of Francisco Soto's ranch, and to enable you make which the 13th direct interrogatory was propounded, you stated that the yellow line on your map was the true northern boundary of Vallejo's rancho. How, then, in terminating the eastern line of your survey at some point on the arroyo del Alto, between the word "Alto" and the letter "B," would you have been compelled to cross the Vallejo boundary?

Answer. The boundary of Vallejo follows the yellow line which is on the northern side of the Alto, and embraces a narrow strip of land on the north side of said Alto; the arroyo is not the boundary of Vallejo, but is embraced within his boundary, and I would have to cross that boundary and that narrow strip of land to reach the said arroyo "Alto" on my map, the point at "B" being the only one where Vallejo's boundary comes to the Alto.

33d question. What authority north of the Alto, within Vallejo's boundary?

Answer. The map of Vallejo, marked "D, P. L.," which I had in my possession, which enabled me to compare the courses and
46 distances of his survey and my own, and the statement which Vallejo made to me a year ago that his line ran as I have represented it.

34th question. Did Vallejo go with you upon the ground, and point out to you the only point where his line touched the Alto, and give to you the width of the narrow strip of which you have spoken down its banks?

Answer. He did not.

35th question. Did Vallejo ever tell you who joined him in the mountains, and at what points?

Answer. He did not.

36th question. Look at the map of Vallejo, marked "D, P. L.," and say what stream it is that is marked thereon as the southern boundary of Vallejo's land.

Answer. I do not know, but I think it is the Alameda creek from its position.

37th question. Where on this map is laid down the arroyo del Alto?

Answer. On Vallejo's land, near and south of its northern
47 boundary.

38th question. Why do you say that this short line, where is marked "Ojo de Agua," is the arroyo del Alto?

Answer. From its position and my observation on the ground, and having meandered the Alto from its head to its mouth.

39th question. Does the arroyo del Alto sink and disappear in the road from San Antonio to the mission of San José?

Answer. It sinks very near said road.

40th question. How long is the arroyo del Alto, by the scale of varas on your map?

Answer. About three miles.

41st question. How long is the same creek on said map "D, P. L.?"

Answer. It is there probably a little more than a mile.

42nd question. If the said Alto sinks at the road from San Antonio to mission of San José, why have you extended the said arroyo about ¾ of a mile below said road?

48 Answer. Below the road, about as far as I have represented the drain remains, the creek disappears near the road.

43rd question. Is there not in said creek just as much water fifty yards below the road as there is fifty yards above it?

Answer. I cannot tell. I do not recollect seeing any water near the road when I was there.

44th question. Is the arroyo del Alto throughout its whole length correctly delineated on the said map "D, P. L."

Answer. It is not.

45th question. Where did you get the map "D, P. L.?"

Answer. It was delivered to me by Judge Crane, with other papers. That is all I know about it as being Vallejo's grant.

46th question. Is this map so accurate as that it could form the basis of minute and accurate survey?

49 Answer. It is not, except on one line where the course is given.

47th question. Do you know whether the variation of the needle was given in running that line?

Answer. It is marked to have been run by the magnetic meridian at the time.

48th question. State what would be the true course of that line?

Answer. It would be north 7½° east.

49th question. Why is it that this same line on your map does not correspond with the same line on the Vallejo map, which formed the basis of your survey?

Answer. I ran a straight line from B to C on my map, without reference to any conflict with Vallejo's line, which I supposed at one time to be the only line to answer the call of the grant, which called for a straight line from the Alto to the beach, but on reflection I believed the line of Vallejo could be more properly followed, and answer equally the call of the grant.

50th question. How wide is the narrow strip of land which

50 you say is embraced within Vallejo's boundary along the north banks of the Alto?

Answer. It may vary from a few chains to a half mile in width, being narrower in some places than in others. I calculate it from the map "D, P. L.," and from Vallejo's statements to me.

51st question. Why, then, did you cause the yellow line on your map to touch on the saidar royo throughout about three-fourths of its length?

Answer. The northern edge of the yellow line is supposed to be

the bounday, and that may not be accurately correct, but as near as I could get it.

52d question. In making this survey, had you any other papers than those you have mentioned?

Answer. I had also what purported to be a copy of Soto's second petition for the sobrante, and the report of Jimeno upon it; also a petition from Soto to the governor, praying that he would set boundaries to Castro, and the report of Jimeno thereon; I had no others. I now recollect that I read Castro's last grant; that is all.

51 53d question. State where you procured said documents?

Answer. I received them from Judge Crane.

54th question. Drawing a line upon your map at the base of the hills, so as to include the "Casa de Gulermo Castro" on your map who claimed the land east of such a line?

Answer. I understand that it is claimed by Gullermo Castro.

55th question. Who lives in the house marked on your map, "Casa de Guillermo Castro," and who has lived there since you first knew it?

Answer. Don Guillermo Castro lives in it, and has lived there ever since I have resided in that country?

56th question. Who claims the land south of the arroyo del Alto, and east of the San Antonio road?

Answer. I understand that it is claimed by Vallejo.

57th question. Is not the pile of stones at "B," on what is

52 claimed to be by Vallejo and Castro their dividing line?

Answer. From my recollection of reading Castro's grant, I think that would be his corner also. Whether Castro and Vallejo claim it to be so, I do not know.

58th question. How far, in a westerly direction from the pile of rocks, do Castro and Vallejo claim to be coterminous?

Answer. I understand Castro claims down to within ten varas of the foot of the hill, or from the plain.

59th question. Who placed the flag-staff on what you was told was the rodeo ground, and who told you it was the rodeo ground?

Answer. Blackwood told me he placed the flag-staff there, and he told me that it was the old rodeo ground. Judge Crane told me, before I commenced the survey, that a flag-staff would be placed on the rodeo ground. I do not know whether it was placed there by his direction or not.

53 60th question. In running the northern line of this land, what authority had you for pursuing the San Lorenzo creek from the point "A" to the point where you left it, and why did you leave it at that point?

Answer. The creek is so near in the course of the line that I followed it. It is generally customary to follow a stream when it comes so near the general course of a line, and one reason was that I did not wish to run the line across the creek, the grant calling for the land on the east side of the San Lorenzo. I left it at the point where I did, because that was the last point where a direct line between A and C, running towards C, would touch said creek.

The claimants object to this deposition as being illegal and incompetent testimony, because the survey was made by an interested party at the instance of interested parties, without notice to the claimants and upon insufficient data.

J. J. H. GRAMMONT.

Subscribed and sworn to before me on this 16th day of
54 November, A. D. 1854.

PETER LOTT,
Commissioner.

The witness, after being sworn, wished to state that the certified copy of the agreement marked "B, P. L." is correctly translated by him in the paper marked "C, P. L.;" but that since he has here examined the original on file, he finds the word "para" between the words "varas" and "las lomas," near the end of said document, reads, in the certified copy, "por," which is incorrect, and gives a different meaning to the description, and thus makes his (witness's) translation differ from said original document.

PETER LOTT,
Commissioner.

Filed in office Nov. 17, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 5, p. 682.

GEO. FISHER, *Sec'y.*

(Here follows maps, p. 54.)

55 *Dep. of H. A. Higley.*

UNITED STATES LAND COMMISSION,
San Francisco, Nov. 30, 1854.

On this day, before Commissioner R. Aug. Thompson, came H. A. Higley, a witness on behalf of the claimants, Barbara Soto *et al.*, in case No. 524, who, after being duly sworn, deposed as follows. Present: H. J. Thornton, esq., attorney for claimant, and J. C. McKune, esq., U. S. law agent.

In answer to question, witness states his name is H. A. Higley, his age twenty-six years, and residence Alameda county, California, and is now county surveyor of said county.

Question by claimants' att'y. Are you acquainted with the rancho called San Lorenzo claimed in this case? and if so, state whether or not you have ever made a survey of the same, and by what authority such survey was made.

Answer. I am acquainted with said rancho. I made a survey of the same in the month of January, 1854, by virtue of written instructions from the U. S. surveyor general for the State of
56 California, the original of which is now produced by me and herewith filed, marked R. T. No. 1. The map of said rancho

now produced by me and herewith filed, marked "R. T." No. 2, was made under my direction from the field notes of said survey. Said map is a correct delineation of the boundaries of said rancho, as described in the instructions of the surveyor general, with the exception of the south line of the same dividing it from the rancho of José de Jesus Vallejo, called the rancho of Alameda. The instructions called for that line to run through a rodeo which I could not find. I therefore adopted a line of said Vallejo's, as established by a survey made a short time previous under instructions from the surveyor general. The claimants under this grant protested against said line as run by me, and claimed the line to terminate further south on the beach. The quantity, as ascertained by said survey, is a portion less than that called for in the original as shown in said instructions. The houses of Castro and Soto, as represented near the eastern line of said survey, are correctly
57 laid down in said map, as are also the other topographical features of the country delineated thereon. The eastern or dividing line between said rancho and that of Castro was run according to the instructions and in the presence of both parties, who agreed that it was the correct line. The said rancho is north of the 37th degree of north latitude.

Cross-examined by U. S. law agent.

1st question by same. In running the dividing line between this rancho and that of Guillermo Castro, how did you find the starting point?

Answer. By producing or extending the line of the front of William Castro's house until it intersected the sanjon mentioned in the instructions.

2nd question by same. Might not any other point have been as well assumed as that; and if nay, why not?

Answer. It might, but no other reading of the instructions than the one I have taken would have been intelligible. I should have added, to my answer to the first question of the law agent,
58 that from the intersection of the line from house of Castro to the sanjon I measured 600 varas, and from this last point I run a line parallel with Castro's house north 36° 4′ west to the San Lorenzo creek.

3 question by same. What words guided you in running the 600 vara line spoken of in your last answer?

Answer. The following words, contained in the instructions: "A line parallel to the side of said house 600 varas towards the main road, drawn from said ditch to the arroyo of San Lorenzo."

4th question by same. The ditch of the sanjon is spoken of as a means of ascertaining the dividing line between this rancho and Castro's. Is there more than one object known as a sanjon south of Castro's house?

Answer. I think not. I understand a sanjon to be a deep gully or ditch washed out by water. There are small arroyitos or brooks, but nothing that I could call a sanjon.

5th question by same. Commencing at the point assumed by you on the sanjon where the 600 vara line terminated, in what di-
59 rection and what distance did you extend your survey, and what is the course of the main road nearest that point?

Answer. I have already given the course in my answer to question No. 2; the length of the line of the San Lorenzo creek is 144 chains, and its general direction is nearly parallel with the main road, and not quite a half mile from it.

6th question by same. After establishing the 600 vara line, did you run to the nearest point of the San Lorenzo creek; if so, why not?

Answer. I did not, because such a line would not have been parallel with the side of Castro's house.

7th question by same. If you had run such a line would it have comprehended more or less land within the Soto ranch, and how much?

Answer. It would have comprehended more; I cannot say how much more, as I never made the measurement. I do not think it would exceed 1,000 acres, and it might not be half that quantity.

8th question by same. In running the easterly line of the
60 Soto rancho on the south side of the sanjon, did you measure 10 varas westerly for said boundary?

Answer. I did not. From the foot of the hills, on the westerly side of the hills, I measured ten varas up or easterly.

9th question by same. At what point, at or near the Alto creek, did you terminate said line?

Ans. At the point marked on the map T. S. No. 1, near the foot of the hills, and about 6 chains north of the Alto creek.

10th question by same. How far does that creek extend after leaving the hills before it sinks?

Answer. I have never measured it, but I suppose about two miles.

11th question by same. In running the southern line from the point last spoken of to the beach, did you pass through a rodeo; and if no, why not?

Answer. I do not know that I did; I saw no rodeo ground; I could not find the rodeo ground, either from personal observation or from the information of the old inhabitants. I understood from
61 them that there had been rodeo ground in the neighborhood used by the mission of San Jose many years ago, but all traces of it had been obliterated.

12th question by same. After reaching the beach you run along it to the mouth of the San Lorenzo creek. By what authority did you run that line?

Answer. By authority of my instructions from the surveyor general.

13th question by same. Suppose you should continue the line along the beach across the San Lorenzo, what distance would you go before you would reach any hills?

Answer. I suppose some twenty-five or thirty miles to San Pablo, where the hills run down to the beach from the point where the San

Lorenzo waters the salt marsh on the bay. I suppose it is *I suppose it is* about three miles to the first hills in an easterly direction.

14th question. After reaching the beach at the termination of the south line, where are the first hills you would run to on the San Lorenzo creek? Point out on the map the position of those hills.

62 Answer. The nearest hills on the San Lorenzo creek would be what the point marked on said map with the letter A in pencil.

15th question. Should you run a line from the termination of the southern line on the beach direct to said hills, would it not satisfy the calls of the grant, the terms of your instructions, and save the necessity of running a line northerly along the beach to the San Lorenzo, and up the San Lorenzo to the hills? If no, why not?

Answer. It would not. I would not then be following my instructions.

16th question by same. Would such a line have a surplus not included in said ranch, which by your survey as made is included, and how much would said surplus contain?

Answer. It would cut off about three thousand acres from the present survey.

17th question by same. Look at the document now shown you marked W.W. and R.T. No. 3, and hereto annexed, and state whether you made the survey thereon contained; and if yea, is it a cor-

63 rect one according to the translations thereto attached?

Answer. I made said survey. It is correct, as stated in my certificate attached to said map.

Re-examined by claimants' counsel.

1st question by same. Explain the difference between the last mentioned map and the one first introduced; and state why you run the line shown on the former from the southwest corner to the hills on the San Lorenzo, instead of running along the beach and up the San Lorenzo, as delineated in the latter.

Answer. In the first place, there is a material difference between the translation contained in my instructions from the surveyor general and that given me by Judge Crane, on which the survey marked Exhibit No. 3 was made. In Judge Crane's translation, from the point on the beach southwestern corner reads, "Thence to the first league of land which forms the hills." In the instructions of the surveyor general it reads, "And from this (point) to the first ridge formed by the hill range." According to Mr. Crane's trans-

64 lation, I understand the line to run direct from the southwest corner to the hills; whereas, by the instructions of the surveyor general, I understand the beach as far as the San Lorenzo to be the western boundary, and the word "point," in the translation, to refer to that boundary, especially as the ridge was given as the eastern boundary; and we thus had the boundaries on the four sides. Again: I did not run for Judge Crane the adjudicated line between Castro and Soto, which fixes that line as the true eastern boundary

of Soto's ranch, and leaves to Castro the land on the ridge of the hills, which is excepted out of Soto's grant. In reference to the second or additional grant to Soto, I did not run it for Judge Crane, as I could not, from the manner in which the survey was made, understand it; but, under the instructions of the surveyor general, I understood it as including the land over and above a league square contained within the boundaries, and embracing the land along the beach. Judge Crane, in his instructions, required me to survey all
the lands that were or could be included in said grant, and
65 afterwards wished me to certify that I had done so, which I
refused to do, because I was not at that time sufficiently acquainted with the papers to know whether I had done so or not. The survey last made, marked No. 3, was made at the instance of the claimants in this case, who selected me to make it; and the surveyor general, in accordance with their wishes, appointed me for that purpose.

H. A. HIGLEY.

Sworn to and subscribed before me Nov. 30th, 1854.

R. AUG. THOMPSON, *Com'r.*

Filed in office Nov. 30th, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 5, p. 745.

GEO. FISHER, *Sec'y.*

66 (Here follows map, page 66.)

67 *Dep. of Guillermo Castro.*

UNITED S TTES LAND COMMISSION,
San Francisco, Dec. 2, 1854.

On this day, before Commissioner Felch, came Guillermo Castro, a witness on behalf of the claimants, Barbara Soto *et al.*, in case No. 524, who, after being duly sworn, deposed as follows, his evidence being interpreted by the interpreter of the board:

Questions by Judge Thornton, att'y for claimants.

1st question. Please state your name, age, and place of residence.

Answer. My name is Guillermo Castro; my age, forty-five years; and I reside in Contra Costa, California.

2d question. Are you acquainted with the rancho called San Lorenzo, claimed by Barbara Castro de Soto, and others, the present claimants?

Answer. I know said rancho. It adjoins my own rancho and that of Jesus Vallejo.

3 question. Please look at the deposition of J. I. H. Grammont,
heretofore taken and filed in this case, and read his answer to
68 the sixth direct interrogatory, and state what you know concerning the pile of rocks which is mentioned in said answer.

Answer. I have looked at said answer in said deposition, and I

know the pile of rocks mentioned therein. The rocks were placed there by my father and Jesus Vallejo, as a boundary between the land of said Vallejo and the Castro rancho. I mean the pile of rocks which is near the head of the Alto creek. I do not recollect the precise time when they were placed there, but it was about the year 1840.

4th question. What distance is it where the lines of your rancho and Vallejo's border on each other, towards the bay?

Answer. About one league.

5th question. What tract of land lies between your rancho and the bay?

Answer. The rancho of Soto before mentioned, called San Lorenzo.

6th question. How far does Vallejo's line extend towards the bay, after it leaves your rancho?

69 Answer. It extends to the bay.

7th question. What rancho adjoins Vallejo's along his line from where your land slopes down to the bay?

Answer. The rancho of Soto.

8th question. Was you present when the Soto rancho was surveyed by Mr. Higley.

Answer. I was.

9th question. Did you point out to him the boundary between your land and Soto?

Answer. I did.

10th question. Was that line run by Higley according to the agreement between your father and Soto?

(This question is objected to and waived.)

11th question. How was that line established between the Castro rancho and Soto's?

Answer. It was run according to an agreement made between my father and Soto, before the governor. Higley run it according to the agreement above mentioned.

70 *Questions by Mr. McKune, law agent.*

1 question. Look at the eastern line as delineated on the map now here produced to you, and marked "R. T. No. 2," and annexed to the deposition of H. A. Higley, heretofore filed in this case, and state what is the difference, if any, between the line above mentioned as run by Higley and the line as claimed by your father before the settlement of it by agreement, as above stated.

Answer. The line, as claimed by my father, was the Camino Real.

2 question. Was or not the land (the Castro rancho) obtained by your father for your especial benefit?

Answer. My father was my agent or attorney to settle the line for me, but not to obtain the grant.

3 question. Was you present when said Higley made a survey of the lines for Mr. Crane?

Answer. I do not know of Higley making any other survey than that before mentioned.

71 4 question. After the settlement of that line where did Soto's cattle pasture, on your land or on his?

Answer. We have always been good friends, and Soto's cattle often

run on my land and my cattle on his. We never have any quarreling about it.

5th question. Was not the best pasture land, during the dry season, among the hills?

Answer. One is about as good as the other.

6th question. In what year did Soto build a house on the rancho, and how long was it after you obtained your grant?

Answer. He built a house on the rancho in 1841, or 1842, I do not recollect which. I don't recollect whether I had received my grant or not, when Soto built the house on his.

7 question. Where did Soto reside, at and before the time he built the house on the San Lorenzo ranch.

Answer. In the pueblo of San José.

8 question. Did he not keep his residence at San José before
72 and after he built the house at San Lorenzo?

Answer. He moved from San José to the rancho San Lorenzo with his family before he built the house, and lived there under the trees. He lived in that way, in a sort of camp, about two or three months before the house was built.

9 question. Who lived in his house at San José during that time, and how much of a family had he with him in his camp?

Answer. His mother-in-law remained in his house at San José. He took his wife and children with him to San Lorenzo.

10 question. Was the house built by Soto before or after the pile of stones which you have mentioned was placed as a boundary?

Answer. I do not recollect.

11 question. How do you know that those stones were placed there by your father and Jesus Vallejo?

73 Answer. Because my father showed them to me, and so did Vallejo; and both of them told me that they put them there.

12 question. How do you know what lines embraced the Soto rancho?

Answer. We are co-terminous neighbors, and Soto and I have been often about the lands and know our respective lines.

13 question. Were those lines ever established by juridicial possession?

Answer. They were not.

14 question. Did you ever see the title to the Soto rancho?

Answer. I have seen it, and read it.

15 question. Is your knowledge of the extent of that rancho founded on what you learned from the title papers.

Answer. I know it because I have seen it, and the lines were marked according to the agreement made before the governor; a copy of the agreement is in the traced copy on file in this case marked "Espediente," and is the last instrument in that document;
74 said document is also marked "A. T." I derived my knowledge from the title, the agreement above mentioned, and Soto and myself having mutually consented to this boundary.

16 question. When did Soto die?

Answer. About ten years ago.

GUILLERMO CASTRO.

Subscribed and sworn to before me this first day of December, A. D. 1854.

ALPHEUS FELCH,
Commissioner.

Filed in office Dec. 2, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 11, p. 22.

GEO. FISHER, *Sec'y.*

Deposition of A. M. Pico.

75 UNITED STATES OF AMERICA,
State of California :

SAN FRANCISCO, *June 10th*, 1854.

This day came before P. Lott, com'r, &c., Antonio M. Pico, a witness for claimant in case No. 524, before the U. S. land commission in said State, who, being sworn, on oath deposed in Spanish, which was interpreted into English by the interpreter to said board as follows, to wit : (Barbara Soto *et al.* claimants.) The U. S. law agent is present.

Questions by claimant's attorney.

1st question. What is your name, age, and place of residence ?

Answer. My name is Antonio Maria Pico, my age is forty-four years, and my residence San José.

2d question. Look on the document now shown to you, marked exhibit A. P. and annexed to this deposition, and state whether or not you are acquainted with the signatures thereon; and if so, are they genuine ?

Answer. I have examined said document. The signature of
76 Francisco Soto is genuine. I have often seen him write. The other signature is my own genuine signature. The paper is a genuine document.

3d question. Did you give the juridical possession of the said rancho of San Lorenzo, in accordance with the prayer of said petitioner and at the appointed time; if not, why did you fail to do so ?

Answer. I did not. Before the appointed time Francisco Soto was taken very sick. He continued sick a long time and finally died of that sickness. About the time of his death, or s on after, the Micheltorena revolution commenced. For these reasons I never gave the juridical possession of the said rancho.

ANTONIO MA. PICO.

Subscribed and sworn to before me on this 10th day of June, A. D. 1854.

PETER LOTT,
Commissioner for taking testimony, &c.

Filed in office June 12th, 1854.

GEO. FISHER, *Sec.*

77 Recorded in Ev. B, vol. 4, p 563.

Espediente.

Sello cuarto, dos reales. Habilitado provisionalment por la aduana maritima del puerto de Monterey, en el departamento de las Californias para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

Monterey En'o 11 de 1844. Inf'e el S. Srio del despacho tomando otros si los necesitare.

MICHELT'A.

[sello.] Exmo Sor. Gob'or : Franco Soto vecino del pueblo San José ante V. E. con el debido respecto me presento y digo que en el mes de Mayo de 1842, see me concedio provicionalmt'e por el Exmo Sor. Gob'or antecesor de V. E. una parte del parage llamado S'n Lorenzo como dos sitios y medio de ganado mayor ; y en el mismo año en el mes de Octubre habiendo tenido alguanas differencias sobre el terreno, con D'n Guillermo Castro nos manifesto S. E. el deseo que tenia de que terminasemos en amistad nuestra cuestion. Hice un sacrificio en ceder una gran parte, con logue el Sor. Castro quedo conforme; en seguida se me estendio el titulo de propiedad quedando reducido á sitio y medio poco mas á menos y ya en el mismo tiempo de hacer la medicion me pidio
78 (de amigos) cincuenta varas mas de tierra y se las dicreyendo por este echo ganar mas su amistad y vivir con el en biena armonia pero no fué asi. Por el adjunto officio del Sor. Estudillo juez en aquel tiempo vera V. E. que no obstante lo pasado siempre trato de perjudicarme y se empeño en despojarme de mi propriedad y no pudiendo yo lograr el poseer tranquilo el terreno que se me concedio suplico á V. E. el ql. en obsequio de la justicia se nos haga entender cual es el ql. á cada uno corresponda conforme á los respectivos titulos y sujetarnos á el.

A. V. E. Por tanto ruego atienda á mi pedido por logue recibir é merced juro &c.

Monterey, 11 de Enero, de 1844.

FRAN'CO SOTO.

Pliego separado conteste como representante de su hijo D'n Carlos Castro, sobre el contenido de la presidente representacion.

Monterey, 11 de Enero, de 1844.

MAN'L. JIMENO.

Exmo Sor. Gobernador : Lo alegado por D'n Carlos Castro esta provado y pa librar á una y otra parte de mayores contiendas,
79 me parece conbeniente que á Don Fran'co Soto se la mida un sitio poco mas ó menos que se le ha consedido debiendosele medir desde la play pa las tomas pero siempre por la parte del arroyo del Alto porque estos son los linderos que se le han demarcado y desde estos limites deben seguirlos de Don Guillermo Castro conforme espresa su titulo dado por el Gob'no mas V. E. dispondoa loque encontrare por mas conbeniente.

Monterey, 12 de En'o. de 1844.

MAN'L. JIMENO.

MONTEREY, *En'o* 15, *de* 1844.

No conviniendose esta parte adjuntese el Escrito y sertif'os del S. Secret'o remitiendose todo al superior tribunal pa qe declare el derecho que cada uno tenga.

MICHELT'A.

En Monterey, à los 17 dios del mes de En'a de 1844, se reunieron en la secretarias de Gub'no D'n Carlos Castro como apoderado de su hijo, D'n Guillermo consel fin de arreglar los linderos del terreno que posea con D'n Fran'co Soto y combinieron en que los linderos de D. Guillermo Castro, sera el sanjon que mora al Costado de su casa por la parte del Sur y desde el mismo sanjon por donde haga para-
80 lelo con ella se midieron seiscientas varas pa el camino principal y hasta donde conclugan se tomara una linera recta hasta llegar al arroyo de San Lorenzo debiendose reconoser p'r limites del otro lado del d'ro sanjon la Orilla de la Lomeria que esta hacia el plan hasta donde se midan diez varas por los omas de arriba por la parte del poniente.

En testimonio de verdad.

JIMENO.

OFFICE OF THE SURVEYOR GENERAL OF THE
UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and as such, having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory, or department of upper California, by virtue of the power vested in me by law, do hereby certify that the four preceding and hereunto annexed pages of tracing paper, numbered from one to four inclusive, exhibit a true and accurate copy of a certain document now on file, and forming part of the said archives in this office.

In testimony whereof, I have herunto signed my
81 [SEAL.] name officially, and caused my seal of office to be affixed, at the city of San Francisco, this thirteenth day of October, A. D. 1853.

JOHN C. HAYS,
U. S. Surveyor General for California.

Filed in office Nov'r 2d, 1853.

GEO. FISHER, *Sec'y.*

Translation of expediente.

Seal fourth.—Two reals.

Provisionally authorized by the maritime custom-house of the port of Monterey in the department of the California, for the years 1844 and 1845.

MICHELTORENA.
[SEAL.] PABLO DE LA GUERRA.

Most Excellent Sor. Governor:

I, Francisco Soto, a resident of pueblo of San José, before your excellency with the due respect present myself and say, that in the month of May, 1842, there was granted to me provisionally, by the most excellent sor. governor, your excellency's predecessor, a portion of the place called S'n Lorenzo, something like two and a half square leagues; and in the same year, in the month of October, having
82 had some controversy with Don Guillermo Castro in relation to the land, your excellency manifested to us the desire that we should amicably settle our difference. I made a sacrifice, giving up a great portion, with which the Sor. Castro remained satisfied. In the end, there was issued to me the title in fee, being cut down to one and a half square league, more or less, and finally, at the same time of making the measurement, he asked me amicably for fifty varas more of land, and I gave them to him, thinking by this action to gain more his friendship, and to live in good harmony with him. But it was not thus. By the annexed official return of the Sor. Estudillo, (magistrate at that time) your excellency will see that, notwithstanding the past, he always managed to injure me, and his great desire is to despoil me of my property. And being able to enjoy quietly the land which you granted me, I beseech of your honor, that to favor the ends of justice, you should give us to understand which is the land that belongs to each of us agreeably to the respective titles, and that we may abide thereby.

Wherefor, I beg that your excellency may listen to my prayer
83 hereby, and shall be merciful. I swear, &c.

(Signed) FRAN'CO SOTO.

Monterey, Jan'y 11th, 1844.

Let the secretary of state make his report, taking the other information he may need.

(Signed) MICHELTORENA.

Monterey, Jan'y 11th, 1844.

On a separate sheet as representative of his son, Don Carlos Castro, answered the contents of the preceding representation

(Signed) MAN'L JIMENO.

Monterey, Jan'y 11th, 1844.

Most Excellent Sor. Governor:

That which is alleged by Don Carlos Castro is proved; and soon to free each party from greater contentions, it seem proper to me that to Francisco Soto you should measure out one square league, more or less, which you have granted to him, measuring out to him from the beach the hills, but always in the direction of the arroyo "Del Alto," because these are the boundaries which have been marked out to him, and from these boundaries they must follow those of Don Guillermo Castro, conformably as shown in his title given by the govern-
84 ment; but your excellancy shall resolve on that which it may deem most convenient.

(Signed) MAN'L JIMENO.

Monterey, Jan'y 12th, 1844.

In Monterey, on the 17th day of the month of January, 1844, there assembled in the office of the secretary of state, Don Carlos Castro, as the attorney of his son, D'n Guillermo, for the purpose of settling the boundaries of the land which they own with D'n Francisco Soto, and they agreed that the boundaries of D. Guillermo Castro shall be the ditch (sanjon) which faces to the back part of his house by the south; and from the same ditch to the place where it shall form a parallel with it, there shall be measured six hundred varas in the direction of the main road; and as far as the place of termination there shall be drawn a straight line so as to reach the arroyo of San Lorenzo—they recognizing as boundaries of other side of said ditch the slope of the range of the hills mentioned before on the plan as far as to where shall be measured ten varas in the direction of the high hills, in a westerly course.

85 In testimony whereof.

(Signed) JIMENO.

Filed in office Nov. 2, 1853.

GEO. FISHER, *Sec'y.*

299.

Espediente de D'n Franc'o Soto.

Juan B. Alvarado, gobernador constitucional del departamento de las Californias.

Por cuanto el ciudadano Francisco Sota ha pretendido para su beneficio personal y el de su familia un sitio de ganado mayor en el terreno llamado San Lorenzo cuyos limites son desde el arroyo de este nombre h'ta el nombrado el Alto pretenencia de D'n José de Jesus Vallejo y de este arroyo tirando una linea recta para pasaz por el rodeo hasta la playa y de esta punto á la primera cuchilla que

86 forma la lomeria eseptuando el numero de varas que tiene concedidos en d'ho terreno D'n Guillermo Castro lo que se arreglara al tiempo de la posesion practicados previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos usando de las facultades que me son conferidas á nombre de la nacion Mejicana he venido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras y por la aprobacion de que ha obtenido de la ex'ma junta departamental sugetendose á las condiciones siguientes.

1a. Podra cercarlo sin perjudicar las travecias, caminos y servidumbres, lo disfrutara libre y esclusivamente destinandolo al uso ó cultivo que mas le acomode; pero dentro de un año fabricara casa y estara habitada.

2a. Solicitara del juez respectivo que le de posecion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondrá á mas de las mojoneras algunos arboles

87 frutales ó silvestres de alguna utilidad.

3a. El terreno de que se hace donacion es de un sitio de ganado mayor poco mas ó menos. El Juez que diere la posesion lo

hara medir conforme á Ordenanza quedando el sobrante ql. resulte á la nacion para los usos que mas le convengan.

4a. Si contraviniere á estas condiciones perderá su derecho al terreno y sera denunciable per otro.

4. En consecuencia mando que teniendose por firme y valedero este titulo se tome razon de el en libro á que corresponde y se entregue al interesado para su resguardo y demas fines.

Dado en Monterey, 10 de Obre de 1842.

5. Un sitio de ganado mayor en el terreno llamado S'n Lorenzo cuyos limites son desde el arroyo de este nombre hasta nombrado del Alto pertenencia de D'n Jesus Vallejo y de este arroyo tirando una linea á pasa pr. el Rodeo hasta la ploya exceptuando el numero de varas que tiene concedido en dicho terreno D'n Guillermo
88 Castro lo que se arreglara al tiempo de la posecion.

6. Franc'o Soto llebo su esped'te pr. y venga con los informes.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and as such having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, by virtue of the power vested in me by law, do hereby certify that the six preceding and hereunto annexed pages of tracing paper numbered from one to six, inclusive, exhibit a true and accurate copy of a certain document now on file and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially and caused my seal of office to be affixed, at the city of San
[SEAL.] Francisco, this thirteenth day of October, A. D. 1853.

JOHN C. HAYS.
U. S. Surveyor General for California.

89 Filed in office Nov'r 2d, 1853.

GEO. FISHER, *Sec'y.*

Translation of espediente.

Espediente (record of proceedings) of Francisco Soto.—(299.)

Juan B. Alvarado, constitutional governor of the department of the Californias.

Whereas the citizen Francisco Soto has solicited, for his personal benefit and that of his family, one square league (un sitio de ganado mayor) in the tract of land called San Lorenzo, the boundaries of which are from the creek (arroyo) of that name as far as that named "El Alto," the property of D'n Jose de Jesus Vallejo, and from this creek drawing a straight line, so as to pass by the "rodeo" as far the beach, and from this point to the first (cuchilla) uncultivated place of land, formed by the range of hills, excepting the number of

varas which D'n Guillermo Castro owns, as granted to him in said tract of land, that which will be made conformable to law at the time of the possession: the proper steps and investigations on the
90 subject-matter being previously had, as required by law and regulations, using the powers conferred upon me in the name of the Mexican nation, I have determined to grant to him the mentioned land, declaring unto him the ownership thereof by these presents, and by the approbation which he has obtained from the most excellent junta departmental, he subjecting himself to the following conditions:

1st. He may enclose it, providing he does not interfere with the cross-roads, roads, and servitudes; he shall enjoy it freely and exclusively, destining it to the use or cultivation which may best suit him, but within one year he shall build a house and it shall be inhabited.

2d. He shall solicit of the respective magistrate to give him juridical possession by virtue of this patent, by whom shall be marked out the boundaries, in which landmarks he shall place besides some fruit trees or forest trees of some utility.

3d. The land of which donation is made is one square league (un sitio de ganado mayor) more or less. The magistrate giving the possession shall cause it to be measured in conformity to the
91 ordinance, leaviug the surplus (sobrante) that may result therefrom to remain to the nation for its most convenient uses.

4th. If he contravenes to these conditions, he shall lose his right to the land, and it may be denounceable by another.

Wherefore, I order that this title, being held firm and valid, entry be made of it in the corresponding book, and that it be delivered to the interestered party for his security, and other purposes.

Given in Monterey, 10th of October, 1842.

One square league (un sitio de ganado mayor) in the tract of land called San Lorenzo, the boundaries of which are from the creek of that name as far as that named "del Alto," the property of Dn. Jesus Vallejo. and from this creek drawing a line passing by the rodeo as far as the beach, leaving out the number of varas, which Dn. Guillermo Castro owns, as granted in said tract of land, that which will be made conformable to law, at the time of the possession.

92 Franco Soto sent his "espediente," so that it would undergo the investigations.

Filed in office Nov. 2d, 1853.

GEO. FISHER, *Sec'y.*

Espediente.

Promovido por el cuidadano Guillermo Castro, en solicitud del parage conocido con el nombre de San Lorenzo, No. 309.

Sello cuarto.—Dos reales.

Habilitado provisionalm'te por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para el año de mil ochocientos cuarenta y tres.

MICHELTORENA.
MANUEL CASTANARES.

[SELLO.] EXMO. SOR.: Carlos Castro, Mejicano por nacimiento y vecino del pueblo de San José ante la notoria justificacion
93 de V. E. comparece y dice. Que hallandose en pacifica posecion del parage nombrado "San Lorenzo" cuyo diseño accompaño desde el año acompaño de 1839, en qe. el antecesor de V. E. en el gob'no politico del departamento se servio espedir un decreto para ql acupase d'ho parage interim se corrian los tramites necesarios para concederle el titulo correspondiente y habiendo en consecuencias del mencionado decreto erogado, gastos precisos para la plantacion de alg'no racies indispensables como cáso corrales, &c., y transcurrido ya cerca de tres años en tranquila ocupacion del repetido lugar, creé fundam'te qe. el espediente informativo mandando practicar debera esta concluido en su favor. Por tanto A. V. E. rendidam'te suplico se sirva conocer en el asunto y mandas se fuese de justicia se le espida el titulo de estilo.

MONTEREY, *Oct.* 13, de 1843. Inf'e el S. Sri'o del despacho. MICHELT'A.

Monterey, O'bre 10, de 1843.

CARLOS CASTRO.

EXMO. SOR. GOBERNADOR: Hace cinco ó seis años que D. Guillermo Castro tiene ocupado con sus bienes, el terreno que pretende
94 y como á otros particulares se les ha concedido porciones de tierras en el mismo parage, parece que no hay inconviniente para declararle la propriedad de la estencion que pide segun el espediente que existe en la scr'a pero con la condicion de sujetarse á los linderos que se le demarquen en el titulo para mas intelligencia de sus colindantes, no obstante la determinacion de V. E. sera la mas asertada.

Monterey, Octubre 20, de 1843.

MAN'L JIMENO.

MONTEREY, *Oct'e* 24 *de* 1843,

Como informa el S. Sri'o del despacho de este gobierno agregado la condicion de no embarasas los ejido del pueblo de San José cuando se disignasen ni impedir á los ganados de las mision si pr. ayi pastearen ó aheraren.

MICHELT'A.

Monterey, 25 de Octubre, de 1845.

[Here follows map, page 94.]

Vista la peticion con que da principio este espediente, los informos que preceden con todo lo demas que se tuto presente y de ver convino de conformidad con las ley es y reglamentos de la materia declaro á D. Guillermo Castro dueño en propiedad del parage
95 nombrado San Lorenzo, colindante con el rancho de Sor. Amador con del de San Ramon con el del Sor. Moraga, con el de las peraltas, con el del Sr. Estudillo, con el del Sor. Vallejo, y con el de Dn. Franco Soto, por la parte del camino principal desde el arroyo del Alto, hasta el de San Lorenzo, por haberse considerado a graciado el mencionado Soto por la parte de la playa. Librese el correspondt'e despacho tomese razon en el libro respectivo y dirijose este espedt'e á la E. Junta. El E. S. gobernador asi lo mando, decreto y firmo.

Manuel Micheltorena, general de brigada del ejercito Mexicano, Ayudante Gral de la Plana, mayor y comandante gral y gobernador del departamente de las Californias.

Por cuanto D'n Guillermo Castro ha pretendido para su beneficio personal y el de en familia el terreno conocido, con el nombre de San Lorenzo, colindante con el ranco del Sr. Amador, con el de Sor. Ramon, con el del Sor. Moraga, con el de los Peraltas, con el del Sr. Estudillo, con el del Sor. Vallejo, y con el de Don Franco Soto, por la parte del camino principal desde el Arroya, del Alto hasta el de
96 Sn. Lorenzo, por haberse considerado agraciado el mencionado Soto, por la parte de la play a practicadas previamt'e las diligences y aberequaciences consernientes segun lo dis y puesto por leyes y reglamentos de la materia usando de las facultades que me sou conferidas á nombre de la nacion Mejicana, he venido en concederle el terreno mencionado de clarandole la propiedad, de el por las presentes letras sugetandoce á la aprobacion de la Exma. Junta departamental y bajo las condiciones siguientes.

1a. Podra sercarlo sin perjudicar las travecias caminos y servidumbres, y sin embarasar los egidos del pueblo de San José cuando se le asignare ni impidera el que paceen los ganados, de la mision, lo disfrutara libre y esclusivamente destinandolo al uso ó cultivo que las le acomode pero dentro de un.

2a. Solicitara del Juez respectivo que le de posecion juridica en virtud de este despacho pr. el cual se de marcaran los linderos en cuyos limites pondrá á mas de las mo joneras algunos arboles frutales ó silvestres de alguna utilidad.

97 3a. El terreno de que se hace donacion es de seis sitios de ganado mayor á mas de las seis ceintas varas de terreno que tiene concedido por titulo anterior. El juez que diere la posesion lo hara medir conforme á ordenanza que dando el sobrante que resulte á la nacion para los usos convenientes.

4a. Si contraviniere á estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consecuencia mando que teniendose pr. firme y valedero este titulo se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas. Dado en Montery, á 25 de Obre, de 1843.

OFFICE OF THE SURVEYOR GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and as such having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, by virtue of the power vested in me by law, do hereby certify that the nine preceding and hereunto annexed pages of tracing paper, num-
98 bered from one to nine inclusive, exhibit a true and accurate copy of a certain document now on file and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of San [SEAL] Francisco, this nineteenth day of December, A. D. 1854.

JOHN C. HAYS,
U. S. Surveyor General for California.

Filed in office Dec'r 19, 1854.

GEO. FISHER, *Sec'y.*

Translation of expediente.—Certified copy.

Record of proceedings instituted by citizen Guillermo Castro, in solicitation of the place known by the name of "San Lorenzo."—No. 309.

Seal fourth.—Two reales.

Provisionally authorized by the administration of the port of Monterey, in the department of the Californias, for the year one
99 thousand eight hundred and forty-three.

MICHELTORENA. [SEAL.]
MAN'L CASTANARES. [SEAL.]

MONTEREY, *Oct.* 13, 1843.

Let the secretary of state report.
(Signed) MICHELT'A.

MOST EXCELLENT SIR:—Carlos Castro, a Mexican by birth, and resident at the pueblo of San José, appears before the well known rectitude of your excellency and states, that being in the peaceable possession of [illegible] place named "San Lorenzo," a sketch of which he accompanies herewith, ever since the year 1839, in which your excellency's predecessor was pleased to issue a decree that he should occupy the said place, mean while the necessary investigations should be had in order to the granting to him the corresponding title; and that having, in consequence of the aforesaid decree, gone to the necessary expense of founding some indispensable real property, such as a house, corral, &c., and passed nearly three years in the peaceful occupation of the aforesaid place, he believes to be a sufficient reason that the expedie

ente upon which reports and investigations were ordered to be had, should be concluded in his favor.

Wherefore he humbly prays you to be pleased to deter-
100 mine upon the subject and order, if it should be just, that the title issue to him according to law.

Monterey, October 10th, 1843.
(Signed) CARLOS CASTRO.

SEÑOR GOVERNOR: Don Guillermo Castro has occupied the land which he petitions for with his property for the last six years past; and inasmuch as portions of land have been granted to other individuals on the said place, there appears to be no inconvenience to the declaring to him the ownership of quantity he solicits according to the espediente which is in the office of the secretary, but with the condition that he confine himself to the boundaries which may be assigned to him in the title for the better understanding of his colindantes. Nevertheless the determination of your excellency will be the best.

Monterey, October 20, 1843.
(Signed) MAN'L JIMENO.

MONTEREY, *October* 20, 1843.

In conformity with the report of the secretary of state of this government, (let the title issue,) adding the condition of not ob-
101 structing the commons of the pueblo of San José, when they shall be designated, nor preventing the herds of the mission from pasturing or feeding about there.
(Signed) MICHELT'A.

MONTEREY, *October* 25, 1843.

In view of the petition at the head of this espediente, the foregoing reports and everything else which was considered and necessary to be examined in conformity with the laws and regulations upon the subject, I declare Don Guillermo Castro to be the owner in property of the place named San Lorenzo, bounded by the rancho of Señor Amador, by that called "San Ramon," by that of Señor Morago, by that of the Peraltas, that of Señor Estudillo, that of Señor Vallejo, and by that of Don Francisco Soto on the side next to the main road from the arroyo del Alto to that of San Lorenzo, the said Soto having been considered the grantee of the part next the beach. Let the corresponding title issue and entry be made thereof in the proper book, and let this espediente be directed to the most excellent junta. The most excellent governor thus ordered, decreed, and signed it.

102 Manuel Micheltorena, brigadier general of the Mexican army, adjutant gen'l of the staff, commandant general, and governor of the department of the Californias:

Whereas Don Guillermo Castro, for his personal benefit and that of his family, has petitioned for the land known by the name of "San

Lorenzo," bounded by the ranchos of Señores Amador, Morago, Peraltas, Estudillo, and Vallejo, the rancho called San Ramon, and that of Don Francisco Soto on the side next the main road from the arroyo del Alto to that of San Lorenzo, the said Soto having been considered the grantee of the part next the beach, the proceedings and investigations relative thereto having been previously had according to the laws and regulations upon the subject, in the exercise of the powers with which I am invested in the name of the Mexican nation, I have concluded hereby to grant unto him the ownership of the land aforesaid, being subject to the approval of the most excellent departmental junta and the following conditions:

1st. He may enclose it without prejudice to the crossings, roads, and servitudes, and without obstructing the commons of the
103 pueblo of San José, when they shall be designated, nor prevent the herds of the mission from feeding thereon. He shall enjoy it freely and exclusively, appr[illegible]riating it to such use or cultivation as he may see fit.

2nd. He shall request the proper judge to give him judicial possession in virtue of this despatch, in accordance with which the boundaries shall be marked out; in the limits of which, besides the landmarks, he shall plant some fruit or wild trees of some utility.

3rd. The land which is hereby granted contains six square leagues, (sitios de ganado mayor) besides the six hundred varas which have been granted to him by a former title. The judge who shall give the possession will have it measured according to law, the surplus which may result remaining to the nation for the proper uses thereof.

4th. If he contravene these conditions he shall forfeit his right to the land, and will be denounceable by another.

104 Therefore, this title being held as firm and valid, I order that an entry be made of it in the proper book, and that this be delivered to the party interested for his security and other purposes.

Given at Monterey, Oct. 25th, 1843.

A true and correct translation of its original intraced copy.

San Francisco, Dec. 21, 1854.

Attest: GEO. FISHER, *Sec'y.*

Filed in office Dec. 21, 1854.

GEO. FISHER, *Sec'y.*

Espediente.

1. Promovido por el ciudadano José JoaquinEstudillo, en pretencion de terreno conocido con el nombre de "San Leandro," No. 300.
105 Sello tercero, dos reales. Habilitado provicionalm'te por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarentos y uno.

ALVARADO.
ANTONIO MA. OSIO.

[SELLO.] Rehabilitado por la misma por el año de mil ochocientos cuarenta y dos.

ALVARADO.
ANTONIO MARIA OSIO.

Espediente.

EXMO. SOR.: El C. José Joaq'n Estudillo, Mejicano, por nacimiento ante la justificacion de V. E. se presenta pr. medio de este diciendo: ql. pr. proporcion arce la subsistencia y poder mantener una crecida familia, cual es una esposa y diez hijor, despues de 17 as. 4 meser 7 dias de haver servido en la carera militar; solicito en f'ha 8 de Enero, de 1837, de terreno conocido con el nombre de Arroyo de San Leandro al de S. Lorenzo cuatro sitios de ganado mayor de P'a O. y haviendo logrado de V. E. quien ve con mano largo y protectora á los havitantes de este suelo me estabiliese y siguiese trabajando en interim se concluyan los tramites de ley asi lo he verificado
106 E. Sr. en el espacioso tiempo de 5 años, 5 meses y dias y haviendo padesido estrabio mi espediente en la secretaria de gobierno hago nueva solicitud acompañando devidamt'e el adjunto diseño del mensionado terreno para ql. en su vista obre lo ql. fuere de su agrado con lo que quedare mu y satisfecho de su resolucion. P. T. a V. E. suplico que en uso de sus bondades vea propicia mi solicitud en lo ql. recibiré la gracia ql. pido, y espero tributando á V. E. mi eterna gratitud.

Monterey, Junio 28de, 1842.

JOSE JOAQ'N ESTUDILLO.

Monterey, (sello tercero dos reales.) Habilitado provicionalmt'e por la aduana maritima del puerto de Monterey, en el departamente de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

ALVARADO.
ANTONIO MARIA OSIO.

[SELLO.] Rehabilitado por la misma, para el año de mil ochocientos cuarenta y dos.

ALVARADO.
ANTONIO MA. OSIO.

16 de Octubre, de 1842.

Vista la peticion con que da principio este esped'te los in-
107 formes que se tubieron por conveniente tomar en todo lo demas que se tubo presente y ver conbino de conformidad con las leyes y reglamentos de la materia, declaro á D'n Joaq'n Estudillo dueño en propiedad de una parte del terreno conocido en el nombre de San Leandro colindante pr. la parte del norte con el arroyo de San Leandro, al este con los derramaderos de los ojos de agua de las tierras que ocupan los indios ql. actualm'te estan establecidos desde este punto tomando una linea recta pr. la parte del sur hasta llegar

al arroyo de San Lorenzo sin comprender las tierras que cultivan los indios indicados, y al poniente con el mar. Libresse el correspiendt'e despacho tomese razon en el libro respectivo y dirijase este espediente á la exma junta departamental para su aprovacion.
Exmo. Sr. Gobor. asi lo mando decreto y firmo.

Juan B. Alvarado, gobernador constitucional del departamento de las Californias.

Por cuanto el ciudadano Joaquin Estudillo ha pretendido para su beneficio personal y el de su familia una parte del terreno conocido con el nombre de San Leandro siendo los linderos por la parte
108 del norte con el arroyo de San Leandro, al este con los derramaderos de los ajos de agua de las tierras que ocupan los Indios que actualmente estan establesidor, desde este prunto, tomando una linea recta pr. la parte del sur hasta llegar al arroyo de Sn. Lorenzo sin comprehender las tierras que cultivan los Indios Indicados y al poniente con el mar practicadas previamente las diligencias y averiguaciones consernientes segun lo dispuesto por leyes y reglamentos de la materia usando de las facultades que me son conferidasá nombre de la nacion Mejicana, he venido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras y pr. la aprovacion de la exma junta departamental, sugetandose á las condiciones siguientes.

1a. Podra cercarlo sin perjudicar las travecias, caminos y servidumbres lo disfrutara libre y esclusivamente destinandolo al uso ó cultivo que mas le acomode pero dentro de un año fabricará casa y estara habitada.

2a. Solicitara del juez respectivo que le de posesion juridica en irtud de este despacho por el cual se demarcaran los linderos
109 en cuyos limites pondra á mas de las mojoneras algunos arboles frutales ó silvestres de alguna utilidad.

3a. El terreno de que se hace donacion es de un sitio de ganado mayor poco mas ó menos segun esplica el diseño que corre agregado en el espedt'e respectivo. El juez que la posecion lo hara medir conforme á ordenanza quedando el sobrante á la nacion para los usos que mas le convengan.

4a. Si contraviniere á estas condiciones perderá suderecho al terreno y sera denunciable por otro.

En consecuencia mando que teniendose por firme y valedero este titulo se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines.

Dado en Monterrey dies y seis de Octubre de mil ochocientos cuarenta y dos.

(Here follows map, page 110.)

111 OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and as such having in my office and in my charge and custody a portion of the archives of the former Spanish and

Mexican territory or department of Upper California, by virtue of the power vested in me by law, do hereby certify that the nine preceding and hereunto annexed pages of tracing paper, numbered from one to nine inclusive, exhibit a true and accurate copy of a certain document now on file and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially and caused my seal of office to be affixed at the city of San Francisco, this nineteenth day of December, A. D. 1854.

[SEAL.]

JOHN C. HAYS,
U. S. Surveyor General for California.

Filed in office Dec'r 19th, 1854.

GEO. FISHER, *Sec'y.*

112 *Translation of expediente.—Certified copy.*

Record of proceedings instituted by citizen José Joaquin Estudillo in solicitude of the tract of land known by the name of "San Leandro."—No. 300.

Seal third.—Two reales.

Provisionally authorized by the maritime custom-house of the port of Monterey in the department of the Californias, for the years one thousand eight hundred and forty and one thousand eight hundred and forty-one.

(Signed) ALVARADO.
(Signed) ANTONIO MARIA OSIO.

[L. S.] Revalidated by the same for the year one thousand eight hundred and forty-two.

(Signed) ALVARADO.
(Signed) ANTONIO MARIA OSIO.

MOST EXCELLENT SIR: Citizen José Joaquin Estudillo, a Mexican by birth, appears before the justification of your excellency, hereby stating: that in order to provide himself a subsistence and enable himself to support a large family, composed of his wife and ten children, having served in the army 17 years, 4 months, and
113 7 days, on the 8th of January he solicited the tract of land known by the name of "Arroyo de San Leandro" to that of San Lorenzo, containing four square leagues, (sitios de ganado mayor,) from west to east, and having obtained from your excellency, who extends the inhabitants of this land a generous and protecting patronage, permission to settle himself and continue his labors meanwhile the legal proceedings should be concluded. He has accordingly so done, your excellency, for the long term of 5 years, 5 months, and some days, and his espediente having been mislaid in

the office of the secretary of state, he now renews his petition, duly accompanying the annexed sketch of the aforesaid tract of land, in order that in view thereof you may determine whatever you may deem proper, and he will be entirely content with your resolution.

Therefore he prays your excellency to consider favorably his petition in the exercise your goodness, whereby he will receive the favor which he asks and expects, rendering unto your excellency his everlasting gratitude.

Monterey, June 28, 1842.

(Signed) JOSE JOAQUIN ESTUDILLO.

Seal third.—Two reales.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of Californias, for the years
114 one thousand eight hundred and forty and one thousand eight hundred and forty-one.

(Signed) ALVARADO.
(Signed) ANTONIO MA. OSIO.

[L. S.] Revalidated for the year 1842.

(Signed) ALVARADO.
(Signed) ANTONIO MARIA OSIO.

Monterey, October 16th, 1842.

In view of the petition at the head of this espediente, the reports which were considered necessary to be had, with everything else that was done and necessary to be done in conformity with the laws and regulations upon the matter, I declare Don Joaquin Estudillo own in property of a part of the tract of land known by the name of "San Leandro," bounded on the north by the arroyo de San Leandro, on the east by the place where the waters from the springs on the lands occupied by the Indians, who are at present settled there, waste themselves, *(derramaderos,)* thence on the south side by a direct line to the arroyo de San Lorenzo, without including the lands which the aforesaid Indians cultivate, and on the west by the bay, (mar.)

Let the corresponding title be issued, entry made in the
115 proper book, and this espediente be directed to the most excellent departmental, junta for its approval.

The most excellent señor governor thus ordered, decreed, and signed it.

Juan B. Alvarado, constitutional governor of the department of the Californias:

Whereas citizen Joaquin Estudillo, for his personal benefit, and that of his family, has petitioned for a part of the tract of land known by the name of "San Leandro," the boundaries thereof being on north, the arroyo de San Leandro on the east, the places where the waters from the springs on the lands occupied by the Indians, who are at present settled there, waste themselves, *(derramaderos,)* on the south, thence by a straight line to arroyo de San Lorenzo, without includ-

ing the lands which the aforesaid Indians cultivate, and on the west the bay, (mar.) The proceedings and investigations concerning the same having been previously had according to the laws and regulations upon the subject, in the exercise of the powers with which I am invested, in the name of the Mexican nation, I have concluded to grant to him the tract of land aforesaid, hereby declaring unto him the ownership thereof, and having obtained the approval of
116 the most excellent departmental junta, subject to the following conditions:

1st. He may enclose it without prejudice to the crossings, roads, and servitudes; he shall enjoy it freely and exclusively, appropriating it to such use or cultivation as he may deem proper, but within one year he shall build a house, and it shall be inhabited.

2d. He shall request the proper judge to give him juridical possession thereof, by virtue of this despatch, in conformity with which the boundaries shall be designated, at the limits of which, besides the land-marks, he shall plant some fruit or wild trees of some utility.

3d. The land which is hereby granted contains one square league, (sitio de ganado mayor,) a little more or less, as explained by the sketch which form a part of the respective espediente. The judge, who shall give the possession, will cause it to be measured according to law, the surplus remaining to the nation for the most convenient purposes thereof.

117 4th. If he contravene these conditions, he shall forfeit his right to the land, and it will be denounceable by another.

Therefore, this title being held as firm and valid, I order that an entry be made thereof, in the respective book, and that this be delivered to the interested party for his security and other purposes.

Given at Monterey, this sixteenth day of October, one thousand eight hundred and forty-two.

(On the margin of the sketch.)

Sketch of the place known by the name of San Leandro, made by order of the prefect.

The place embraces the two plains, and only the hills which divide them.

I, George Fisher, secretary to the U. S. land commission, &c., &c., hereby certify the foregoing to be a true and correct translation of a Spanish document in case No. 524, Barbara Soto *et al.* vs. The United States, for the place called "San Leandro," now on file in this office.

Witness my hand this 21st day of Dec., A. D. 1854.

GEO. FISHER, *Sec'y.*

118 Filed in office, Dec. 19, 1854.

GEO. FISHER.

Jurisdiccion del pueblo de San José, de Alvarado, año de 1841.

Espediente.

Promovido por el ciudadano Guillermo Castro, en solisitud de seiciéntos varas de terreno en el parage de San Lorenzo, 1841.

No. 223.

Sello tercero.—Dos reales.

Habilitado por la administracion de la aduana martima del puerto de Monterey de la Alta California, para los años de mil ochocientos trienta y seis y mil ochocientos trienta y seite.

GUTIERRES.
ANGEL RAMIREZ.

[SELLO.] Volga para los años de 1839 y 1840.

ALVARADO.
ANTONIO MA. OSIO.

119 *Esped'e.*

MONTEREY, *Agt.* 10, *de* 1840.

Informe el mayordomo de Sn. José sien la concesion de las seiscientas varas de terreno que se pretenden resultara algun perjuicio positivo al establecmto. de su cargo.

ALVARADO.

EXMO. SEÑOR: Carlos Castro, á nombre de su hijo Guillermo Mejicano por nacimiento, ante V. E. como mas haya lugar en derecho y el respeto debido, digo: que siendo bastante limitado el terreno que posee mi hijo en el parage nombrado S. Leandro, donde se han establecido dos mil cabesas de ganado mayor; y deseoso de hubicar fricas para viver con huerta y un pequeño corral para caballada, libre del perjuicio que pudiera ocasionar la inmediacion del ganado, he de merecer de V. E. se digne conceder á mi repetido representado seiscientas varas en cuadro desde et arroyo de S. Lorenzo, que es el lindero con el establemiento de S. José, hacias el S. O. tierras ql. pertenecian al mismo incluso un aguage situado al E. protestando como desde abora protesto á nombre de mi hijo, no perjudicar absolutamente Indigenas ni brines de dicho estableciminto por tanto A. V. E. suplico se digne proveer como llebo pedido de que recibiré la mor gracias: juro lo ne-
120 cessario, &c.

CARLOS CASTRO.

El interesado puede poseer las seiscientas Vs. en cuadro que solicitas pa. hubicar finca y corral pa. Caballada pues no perjudica á los linderos pertenecientes á este establecimiento siendo con legalidad la peticien.

JOSE MA. AMADOR.

S'n José, Ag't 14, 1840.

Selle tercero, dos reales. Habilitado por la administracion del aduana maritima del puerto de Monterey de la Alta California, para los años do mil ochocientos treinta y seis y mil ochocientos treinta y siete.

GUTIERREZ.
ANGEL RAMIREZ.

[SELLO.] Volga para los años de 1839 y 1840.

ALVARADO.
ANTONIO MA. OSIO.

Monterey, Febrero 23, de 1861.

Vista la peticion con que da principio este espedet. el informe del encargado del establecimto. de San José, con to do lo demas ql. tubo presente y ver conoino de conformidad con los leyes y reglamentos de la materia declaro á Dn. Guillermo Castro deuño en propriedad del numero de seiscientas varas en cuadro de terreno con inclusion de un aguage que este al este en el parage de San Lorenzo para
131 el objeto de hacer casa, la bora, huerta y un corral para caballado bajo la condicion de no perjudicar á los indigenas ni á los vienes del establecimto. de San José. El Sor. Dn. Juan B. Alvarado, gobr. constitucional del departamento de las Califórnias asi lo mando decreto y firmo de que doy feé.

ALVARADO.

OFFICE OF THE SURVEYOR GENERAL OF THE
UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for the State of California, and as such having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, by virtue of the power vested in me by law, do hereby certify that the four preceding and hereunto annexed pages of tracing paper, numbered from one to four inclusive, exhibit a true and accurate copy of a certain document now on file, and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name offi-
[SEAL.] cially and caused my seal of office to be affixed, at the city of San Francisco, this nineteenth day of December, A. D. 1854.
122

JOHN C. HAYS,
U. S. Surveyor General for California.

Filed in office Dec. 20.

GEO. FISHER, *Sec'y.*

Translation of expediente.

Jurisdiction of the pueblo San José de Alvarado. Year 1841.

Record of proceedings instituted by citizen Guillermo Castro in solicitude of six hundred varas of land on the site of San Lorenzo.

Year 1841.—No. 223.

Seal third—two reales. Authorized by the administration of the maritime custom-house of the port of Monterey, in Upper California, for the years one thousand eight hundred and thirty-six and one thousand eight hundred and thirty-seven.

(Signed) GUTIERREZ.
(Signed) ANGEL RAMIREZ.

[L. S.] Revalidated for the years 1839 and 1840.

(Signed) ALVARADO.
(Signed) ANTONIO MA. OSIO.

MOST EXCELLENT SIR: Carlos Castro, in the name of his son Guillermo, a Mexican by birth, appears before your excellency in the best form of law, and with due respect states, that the tract of land which his son possesses in the place named "San Leandro," upon which two thousand head of cattle have been placed, being entirely too small, and desiring to build a house on which to live, as also to plant a small vineyard, and build a small corral for his horses, free from the difficulties which the nearness of the cattle might occasion, he hopes your excellency may be pleased to grant to his aforesaid son six hundred varas square, from the Arroyo de San Lorenzo, which is the boundary of the establishment of San José towards the southwest, lands which belong to the same, including a spring (aguage) situated to the east; protesting, as from the present time, in the name of his son, he does protest, not to disturb one of the Indians nor the property of the said establishment.

Wherefore he prays your excellency to condescend to determine, as he has asked, whereby he will receive the greatest favor. He makes the necessary oath, &c.

124 (Signed) CARLOS CASTRO.

The interested party can occupy the six hundred varas square which he solicits to build a house upon and corral for his horses, since the boundaries of this establishment will not be injured thereby, the petition being in due form of law.

San José, August 14, 1840.

(Signed) JOSÉ MA. AMADOR.

Sello tercero.—Dos reales.

Authorized by the administration of the maritime custom-house of the port of Monterey, for the years 1836 and 1837.

(Signed) GUTIERREZ.
(Signed) ANGEL RAMIREZ.

Valid for the years 1839 and 1840.

(Signed) ALVARADO.
(Signed) ANTONIO MA. OSIO.

MONTEREY, *Feb.* 23, 1841.

[L. S.] In view of the petition at the head of this espediente, the report of the mayordomo of the establishment of San José, with everything else that was considered and necessary to be examined in conformity with the laws and regulations upon the
125 matter, I declare Don Guillermo Castro to be owner, in property, of the quantity of six hundred varas square of land, including the spring (aguage) which is to the east on the place called "San Lorenzo," for the purpose of making a house, fields, orchard, and a corral for his horses, under the condition that he shall not disturb the Indians nor the property of the establishment of San José. Señor Don Juan B. Alvarado, constitutional governor of the department of the Californias, thus ordered, decreed, and signed it.

I attest: (Signed) ALVARADO.

A true and correct translation of its original, in traced copy, on file in this office, in case 524, Barbara Soto *et als. vs.* U. States.

Witness my hand at office S. Fr'co, this 20th Dec., 1854.

GEO. FISHER, *Sec'y.*

Filed in office, Dec. 20, 1854.

GEO. FISHER, *Sec'y.*

[*Exhibit A. P., annexed to the depo. of Antonio Ma. Pico.*]

126 Sello quinto.—Un real.

Habilitado provisionalmte. por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para el año de mil ochocientos cuarentos y tres.

MICHELTORENA.
MANUEL CASTANARES.
[SELLO.] So'r ALCALDE CONSTITUC'L.

PUEBLO DE SAN JOSE, *Eno. de* 1844. Laparte interesada en esta instancia pa. poder obtener la posesion ql solicita el dia 1o. del entrante se presentaria en este jusgado con los documentos ql. acreditan la concession del terreno.

PICO.

Franco. Soto Vecino de este de su mando ante V. como mas haya lugar en derecho comparesco y digo: qe. hace el termino de un año y meses á ql. el Exmo. Sor. Gobernador del departmento se sirvio agraciaome conel titulo del terreno de San Lorenzo en el cual se ordena á los jueces qe. den la devida posesion pa. mi mayor seguridad. Yo conociendo ql. V. puedo verificar can alguna exactitud le suplico se serva darme posesion juridica arreglado á las leyes haciendome responsable á los Costos que se originaren sobre el objecto indicado: Portanto A. V. suplico se digne asseder á fabor del interesado de lo ql. recibire gracia jurando no ser de malicia y lo necesario.

127 Pueblo de S. José, Enera 8 de, 1844, Fran'co Soto.

Filed in office June 12th, 1854.

GEO. FISHER, *Sec'y.*

Translation of Exhibit A. P.

Fifth seal.—One real.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the year one thousand eight hundred and forty-three.

[SEAL.] MICHELTORENA.
MANUEL CASTANARES.

MR. CONSTITUTIONAL ALCALDE: Fran'co Soto, a resident within the limits of your jurisdiction, before you, in due form of law, appears and says, that it is now a year and some months since his excellency the governor of the department was pleased to grant me the title of the land of San Lorenzo, in which the judges are ordered to give me possession for my greater security. Knowing that you are able to do it with some exactituted, I beg of you that you be pleased to give
128 me the juridical possession according to law, hereby making myself responsible to pay the fees.

Therefore, I beg of you that you will be pleased to accede in my favor, in which I shall receive favor, swearing that I do not proceed in malice, and what may be necessary.

Pueblo of S. José, January 8, 1844.

(Signed) FRAN'CO SOTO.

PUEBLO OF S. JOSÉ, *January 8th*, 1844.

In order to give the possession solicited in this petition, the party interested will present himself on the 1st of next month with the documents that will prove the grant of the ground.

(Signed) PICO.

Filed in office June 12, 1854.

GEO. FISHER, *Sec'y.*

129 *Document marked W. W. "R. T." No. 3.*

To Horace A. Higley, esq., county surveyor of Alameda county, Cal.:

SIR: I hand you herewith annexed copies of the grant to Francisco Soto, of the petition filed before the board of commissioners to ascertain and settle private land claims in California, and of the proceedings had before Governor Micheltorena in setting a part six hundred varas to Guillermo Castro, and from these papers I wish an accurate survey made of all the lands which could be covered by or included in said grant to Soto.

Hoping you may use the same care and attain the same correctness as if you were making the survey upon the papers presented under direction of the surveyor general,

I remain, very respectfully, yours,

A. M. CRANE.

Eden, Alameda county, Sept. 15th, 1853.

(Copy.)

Before the commissioners to ascertain and settle private land claims in California.

130 Barbara Soto, Anita Soto, Encarnacion Soto, Margarita Soto, ——— Soto and ——— Soto, give notice that they claim a contract in the said State by virtue of a right and title derived from the Mexican government. Said land is situated in the county of Contra Costa, in the tract known by the name of San Lorenzo, being bounded on the north by the creek of that name.

It is of one and a half square leagues, or sitio de ganado mayor, in extent. It is bounded on the north by said creek of San Lorenzo, by the bay of San Francisco on the west, on the south by an ascertained line by the lands of Jesus Vallejo, on the east by the crest of the range of hills, and an ascertained line with the lands of Guillermo Castro.

A portion of said lands, to wit, one league or sitio thereof, a little more or less, was granted to Francisco Soto on the 10th of October, 1842, by Don Juan B. Alvarado, constitutional governor of California, and the remainder thereof, to wit, the additional quantity of one half league, or sitio, was granted on the 20th of January, 1844, by

131 Don Manuel Micheltorena, the governor of California.

Said Francisco Soto died intestate, on the day of , 184 , leaving the said D'a Barbara, his widow, and the said other claimants, his children, his only heirs; the said land having been acquired by said grantee during his coverture with D'a Barbara, whereby an undivided half part vested in her, said D'a Barbara, and the remainder has descended to the said children. There is no conflicting claim to said land or any part thereof, in the knowledge of the claimants. The original of said grants, with a translation of the same, is herewith presented. The said land has been occupied and improved according to law.

By the attorneys, JONES, TOMPKINS & STRODE.

JUAN B. ALVARADO,

Constitutional Governor of the Department of the Californias.

Whereas the citizen Francisco Soto has petitioned, for his personal benefit and that of his family, for "one sitio" "de ganado mayor" (one square league) of the land called San Lorenzo, the limits

132 of which are the following, viz: from the creek of the same name to the one called "El Alto," belonging to D'n José de Jesus Vallejo; and from this creek drawing a straight line, passing through the rodeo as far as the beach; thence to the first tongue of

land which forms the "Lomeria" (hills,) excepting from this tract the number of varas which were granted to D'n Guillermo Castro of the said land, which will be arranged at the time of giving possession—having previously complied with the requirements and investigations in the matter, agreeably to the laws and regulations—now, by virtue of the authority in me vested, in the name of the Mexican nation, I have thought proper to grant him the forementioned tract of land, declaring the same to be his property, by these present letters, and by the approval, he has obtained the excellent the departmental board, subject to the following conditions:

1st. He may fence it without obstructing the crossings, roads, and servitudes, (right of way;) he shall enjoy it freely and exclusively, putting it to such use or cultivation as he may deem best, but
133 within one year he shall build a house, which shall be inhabited.

2d. He shall solicit the proper judge to give him judicial possession by virtue of this patent, by whom the boundaries shall be marked out, and at the limits of which he shall set besides the land marks some fruit trees, or else wild ones of some usefulness.

3d. The land of which donation is made consists of one sitio de ganado mayor, (one square league,) little more or less. The judge who may give the possession will cause it to be measured agreeably to the ordinance, leaving the "sobrante," (surplus,) which may result to the nation for such uses as may be deemed most convenient.

4th. If he should contravene to these conditions, he shall lose his right to the land, and it shall be opened to denouncement by any other person.

Consequently I command that, holding this as a firm and valid title, the same be entered in the proper book, and be delivered to the interested party for his security and further ends.

134 Given in Monterey this 10th Oct., 1842.

(Copy.)

This day, the 17th day of January, 1844, by agreement, which D'n Carlos Castro, as agent for his son, D'n Guillermo Castro, celebrated with D'n Francisco Soto, it results, according to the acts which to that effect were extended, that the limits of the tract which the said D'n Guillermo Castro shall be from the ditch which is seen from the side of his house, towards the south, and from same ditch from where it is parallel with it, shall be measured six hundred varas in direction with the main road, from where they conclude shall be taken a right line to the arroyo of "San Lorenzo," recognizing for limits on the other side of the Sanjon ditch the margin of the range of hills which is towards the plain, measuring ten varas to the hills westwardly.

And the E. S. governor general D'n Manuel Micheltorena having approved the said agreement, he ordered that it should be
135 noted on this title, and he signed it.

(Signed) MANUEL MICHELTORENA.

(Endorsed upon the title of Francisco Soto.)

Continuation of "R. T." No. 3.

Field-notes of a survey of a tract of land known as the San Lorenzo Rancho, claimed by Barbara Soto.

I hereby certify that on the 16th of September, 1853, I proceeded to make a survey of the above rancho on the order of A. M. Crane. Among the papers from which the survey was to be made, I found one entitled a copy of a grant from Alvarado to Fran'co Soto, of one square league of land, embraced within the following boundaries: From the San Lorenzo creek to the arroyo Alto; thence through the rodeo to the beach; thence to the first tongue of land which forms the "Lomerio" (hills;) this grant not giving the starting point of the eastern boundary on the San Lorenzo creek, nor its termination on the arroyo Alto. I found from another document, entitled "Copy of petition of Barbara Soto and others before the board of U. S.
136 land commissioners," that the crest of the hills were claimed as the eastern boundary. The range of hills not extending to the San Lorenzo, a narrow valley intervening that point on the creek was assumed for the N. E. corner of the track where the general course of the crest of the hills, if continued, would intersect it. Not being able to find the rodeo mentioned in the grant from the crest of the hills near the arroyo Alto, I ran a line to the beach supposed to be the northern boundary of Vallejo's land, in the direction of a prominent peak of the ocean range of mountains on the west side of San Francisco bay; the following being the actual field-notes of the survey:

Began at the N. E. corner of tract, being a sycamore tree marked with two notches on the S. E. side, on the south bank of San Lorenzo creek. From this tree ran S. 31° 43′ E.; at 39.50 across arroyo; at 45 chains across arroyo; at 45 × so. 85 ch's, to a large wooded gulch—121.21 ch's, to summit of hill and end of course. 2d. Ran S. 51¼ E. 38.88 ch's, to a pile of rocks. 3d. So. 55 E. 16.12 ch's, to a pile of rocks. 4th. S. 65½ W.; at 25 ch's cross wire fence at
137 foot of hills; at 40.50 ch's cross arroyo Alto; at 89 ch's cross the same; at 93.42 ch's cross fence; at 161.75 cross wire fence—288.29 ch's, to a house on line; 360 to marsh and end of course. 5th. N. 29½; at 225.10 ch's cross run; at 297.73 × Castro's fence—551.00 ch's to said tongue of land, 3521.00 ch's top of do.; about 3 ch's from N. W. end, 357.00 to San Lorenzo creek. 6th. S. 44½ E. 11.00 ch's up S. W. side creek. 7th. S. 49¼ E. 828 ch's. 8th. S. 67¼ E. 7.50 ch's. 9th. 550¾ E. 8.10. 10th. N. 87½ E. 750 ch's. 11th. N. 65½ E. 19.00 ch's. N. 10° E. 585 ch's. 13th. N. 14° W. 613 ch's, to place of beginning.

The tract, as surveyed, comprising 3,796 acres; the papers from which the survey was made being herewith annexed.

H. A HIGLEY.

ALAMEDA COUNTY, *Sept. 18th*, 1853.

Filed in office Nov. 30, 1854.

GEO. FISHER, *Sec'y.*

138 (Here follows diseño, page 138.)

139 *Instructions to H. A. Higley for survey of rancho San Lorenzo.*

U. S. SURVEYOR GENERAL'S OFFICE,
San Francisco, Cal., December 31st, 1853.

SIR: At the request of Barbara Soto *et al.* (by their attorneys,) you are hereby appointed to execute an initiatory survey of the rancho called San Lorenzo.

In the archives of this office, there are two espedientes in relation to the claim. The first purports to be a grant by Governor Alvarado, in favor of Francisco Soto, for one "sitio de ganado mayor" (square league,) little more or less, the limits of which are, from the arroyo of that name (San Lorenzo) as far as the arroyo called El Alto, which belongs to José de Jesus Vallejo; and from this arroyo drawing a straight line to pass through the rodeo, until it reach the beach; and from this (point) to the first ridge formed by the hill range, with the exception of the number of varas in the said tract of land granted to Guillermo Castro, which will be arranged at the time of giving possession.

The other espediente was instituted by the claimant, on a
140 dispute with his neighbor, Guillermo Castro, in relation to their respective boundaries, which, by mutual agreement, and by Governor Micheltorena's instructions, was friendly settled as follows: they agreed that the boundaries of Guillermo Castro should be the ditch on the south side of his house, and a line parallel to the side of said house, 600 varas towards the main road, drawn from said ditch to the arroyo of San Lorenzo; the boundary on the other side of the ditch to be recognized by the border of the hill range lying in the direction of the plain, measured at a distance of ten (10) varas towards the upper hills on the western side.

By a document, dated January 20th, 1844, filed with the land commissioners, it appears that said Soto represented to Governor Micheltorena that the land granted to him was only for about one "sitio," and that the quantity lying towards the beach was about half a "sitio" in extent; which tract he petitioned for as an addition to his former grant. Upon his representation, the secretary of state was ordered to make his report, which is as follows:

141 "The land which, in additional extent, Don Francisco Soto solicits, appear subject to no objection to its being granted to him, but he shall confine himself within the limits mentioned in his first title, and to the agreement he has lately made with Castro."

This report is approved by Governor Micheltorena.

You will, therefore, locate the land claimed within the limits and quantity mentioned in the aforesaid first grant and additional extent referred to, all in a compact body, so that, if there be any "sobrante" (surplus,) it may be shown in a united form.

If there are any adjoining claimants, you will notify them in writing of the time when you will be running any line in which they may be interested, and you will make full entries in your field-book, of any objections that may be made of the lines, and return to this

office any protests or documents which may be offered for that purpose.

You will also survey and return the notes of any lines which any opposing parties may contend to be the true lines of separa-
142 tion, and for which they may be willing to compensate you; and where any line is an agreed line, that fact must be noted, as also the names in full of the persons consenting thereto.

You will establish each corner and mark each line in the manner required in public surveys, except that, instead of marking your posts and bearing trees with sectional numbers, you will designate them with the letters F. S. and numbers, and furnish all the information required in performing public work, carefully noting the variation of the needle, to ascertain which, you should make frequent observations.

The survey must be made with reference to the meridian, and by chains and links, testing your chain by the standard in this office, before you proceed to the work. You shall be particular in your running and calculations, so as to preclude the necessity of a revision of the work in the field at any time hereafter.

Yourself and assistants will qualify in the same manner as if executing public work, and the evidence thereof returned with your notes.

143 The notes must be accompanied by an accurately protracted map of the survey on a scale of 20 chains to the inch; and also by your tabling, and by all observations and calculations in detail having reference to the ascertainment of any line, or the area of the tract.

Understanding you have made arrangements with the claimants as to your compensation, I shall only state that under no circumstances will this office be responsible for, or compensate you for, any service connected with the execution of these instructions.

You will connect one or more points of any line or lines of this survey with one or more points of any lines of the general survey, so as more precisely to indicate the location of the land.

You will consider the square league to contain 4,340 and $\frac{2}{1}\frac{1}{0}\frac{1}{0}\frac{1}{0}$ acres.

I herewith enclose copy of the instructions for the survey of the public lands.

It is to be understood that, by authorizing this survey, it is only intended to comply with the wishes of the party claiming the
144 land, and not as expressing an opinion on the part of this office as to the merits of the claim.

Very respectfully, &c.,

JOHN C. HAYS,
Sur. Gen'l Cal.

Mr. HORACE A. HIGLEY, present.

Filed in office Nov. 30th, 1854.

GEO. FISHER, *Sec'y.*

B. P. L. Exhibit to depo. of John I. W. Grammont.—Extract.

En Monterey á los 17 dias del mes de En'o de 1844, se reunieron en la secretaria de Gob'no D'n Carlo Castro como apoderado de su hijo D'n Guillermo con el fia de ameglar los linderos del terreno que poseen con D'n Fran'co Soto y combinieron enque los linderos de D'n Guillermo Castro sera el Sanjon que mira al cortado de su casa por la parte del sur y desderel mismo sanjon por donde haya paralels con ello se mediran seis cientas varas p'a el camino prin-
145 cipal y hasta donde concluzan se toniara una linea recta hasta elegar al arroyo de San Lorenzo debiendore reconocer por limites del otro lado del tho Sanjon la orilla de la lomeria que esta hácia el plano hasta donde se miden diez varas por las lomas arriba por la parte del poniente.

En testimonio de verdad,

JIMENO.

I, George Fisher, secretary to the U. S. land commission to ascertain and settle the private land claims in the State of California, hereby certify that the foregoing is an extract truly and correctly made, from the second line from the bottom of the third page to the word "Jimeno," contained in an exped'te filed in this office on the 2d day of November, 1853, in case No. 524, Barbara Soto *et al.*, for the place called San Lorenzo.

In testimony whereof, I have hereunto signed my name.

Office of the secretary of the above-named commission, at the city of San Francisco, Cal., this 26th day of September, A. D.
146 1854.

GEO. FISHER, *Sec'y.*

Filed in office Nov. 17th, 1854.

GEO. FISHER, *Sec'y.*

Translation.—"C. P. L." Exhibit to dep. of Jno. I. H. Grammont.

In Monterey, on the 17th day of the month of January, 1844, there assembled in the office of the secretary of state D'n Carlo Castro, as the attorney of his son, D'n Guillermo Castro, for the purpose of settling with D'n Francisco Soto the boundaries of the land which they own; and they agreed that the boundaries of D'n Guillermo Castro shall be the Sanjon, which faces to the end of his house on the south; and from the same Sanjon, where it forms a parallel with it, shall be measured six hundred varas towards the main road; and from where they terminate shall be run a straight line till it reaches the arroyo de San Lorenzo; they recognizing as boundaries on the other side of the said Sanjon the slope (orilla—edge) of the
147 lomeria* which is towards the plain till ten varas are measured on the upper hills on the west.

In testimony whereof,

JIMENO.

* Lomeria—assemblage of hills.

NOTE.—The Sanjon is a creek on the summit of the upper hills, and runs towards the plain where it sinks near the main road alluded to in the first part of the agreement.

Filed in office Nov. 17, 1854.

GEO. FISHER, *Sec'y.*

Objections to certain espedientes.

BARBARA SOTO *vs.* U. STATES. } No. 524.

The claimants, by their counsel, object to the introduction of the espedientes this day filed by the U. S. law agent, viz: two espedientes from the office of the surveyor general, at the instance of Guillermo Castro, and a third at the instance of José Joaquin Estudillo,
148 because they are incompetent and irrelevant as evidence in the case, and so encumber the record of the case now submitted.

Filed in office Dec. 19, 1854.

GEO. FISHER, *Sec'y.*

Recorded in journal, vol. 4, page 146.

GEO. FISHER.

A.—Grant of one sitio, original H. H., No. 1, annexed to dep. of G. Castro.

Sello primero.—Seis pesos.

Habilitada provisionalm'te por la aduana maritima de Monterey, para los años de 1842 y 1843.

ANTONIO M'A OSIO.

ALVARADO.

[SELLO.] Juan B. Alvarado, gobernado constitucional del departamento de las Californias:

Por cuanto el ciudadano Francisco Soto ha pretendido para su beneficio personal y el de su familia un sitio de ganado mayor en el terreno llamado S'n Lorenzo cuyos limites son desde el arroyo de este nombre hasta el nombrado El Alto pertenencia de D'n Jesus
149 Vallejo y de este arroyo tirando una linea recta á pasar porel rodeo hasta la playa y deceste punto á la primera cuchilla que forma la lomeria exceptuando el numero de varas que tiene concedidas en d'ho terreno D'n Guillermo Castro lo que se arreglará al tiempo de la posecion, practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos; usando de las facultades que me son conferidas á nombre de la nacion Mejicana he venido en consederle el terreno mencionado declarandole, la propiedad de el por las presentes letras sugetandose á la aprobacion de la ex'ma junta departamental y bajo las condiciones siguientes.

1a. Padrá cercarlo sin perjudicar las travecias, caminos y servidumbres; lo disfrutará libre y esclusivamente destinandolo al uso ó cultivo

que mas le acomode pero dentro de un año fabricará casa y estará habitada.

2a. Solicitará del juez respectivo que le de la posecion juridica en virtud de este despacho porel cual se demarcaran los linderos
150 en cuyos limites pondrá á mas de los mojoneras algunos arboles frutales ó silvestres de alguno utilidad.

3a. El terreno de que se hace donacion es de un sitio de ganado mayor poco mas ó menos segun esplica el diceño que correagregado al esped'te respectivo. El juez que diere la posecion lo hara medir conforme á ordenanza quedando el sobrante que resulte á la nacion para los usos convenientes.

4a. Si contraviniere á éstra condiciones perderá su derecho al terreno y sera denunciable por otra.

En consecuencia mando que teniendose por firme y valedero el pres'te se tomo razon de el en el libro á que corresponde y se entregue al interesado para su resguardo y demos fines.

Dado en Monterey á diez de Octubre de mil ochocientos cuarenta y dos.

JUAN B. ALVARADO.
MAN'L JIMENO, *S'rio.*

Queda tomada razon de este despacho en al libro de asientos sobre adjudicaciones de terrenos voldios á fojas 16.

JIMENO.

151 El ex'mo s'r gobernador ha dispuesto se tomo razon de esta consecion en la prefectura del 1er distrito.

JIMENO.

El dia diez y siete de Enero de mil ochocientos cuarenta y cuatro, por convenio que celebro Dn. Carlos Castro como apoderado de su hijo Dn. Guillermo, con Dn. Fran'co Soto, resulto segun las actas que al efecto se estendieron, que los limites del terreno del espresado Dn. Guillermo Castro seran desde el sanjan que mira al costado de su casa por la parte del sur, y desde el mismo sanjon par donte haga paralelo concella se midieron seis cientas varas pa. el camino principal y hasta donde concluyan se tomara una linea recta hasta el arroyo de San Lorenzo debiendose reconocer por limites del otro lado del espresado Sanjon; la orilla de la lomeria que esta hácia el plan basto donde se mida diez varar pr. las lomas de arriba por la parte del poniente.

Y habiendo aprobado el E. S. gobernador general Dn.
152 Manuel Micheltorena el mencionado convenio, mando se anotara en este titulo y lo firmo.

MANUEL MICHELT'A.

Filed in office Jan'y 22d, 1853.

GEO. FISHER, *Sec'y.*

B.—Grant of overplus.—Original.—H. H. No. 2, *annexed to dep. of G. Castro.*

Sello quinto, un real. Habilitado provisionalm'te por la aduana maritima del puerno de Monterey, en el departamento de las Cali-

fornias para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y sinco.

[SELLO.]

PABLO DE LA GUERRA.
MICHELTORENA.

EXMO. SO.: Fran'co Soto vecino del Pueblo Sn. José ante V. E. con todo respecto digo que, el titulo en que se le concedio el terreno que ocupa en el parage llamado Sn. Lorenzo espresa tener la estencion de un sitio poco mas ó menos y lo mas que puede tener
153 asia la playo segun un colculo prudente sera medio sitio, el que suplico se digne consedennelo; pues unido á lo demas me sera de mucho veneficio y le viveré para siempre reconocido, jura, &c.

Monterey, Eno. 20, de 1848. Inf'e el S. Srio. del despacho.

MICHELT'A.

MONTEREY, 20 *de Enero de* 1844.

Exmo. Sor. Fran'co Soto.

EXMO. SOR. GOBERNADOR: El terreno que en estension pretende, Don Franco Soto parue que no hay inconbinte. ninguno pa. que se le conseda; pa. sugetandose á los limites que expresa su primer titulo y al convenir celebrado ultimamente con Don Carlos Castro; la determinacion de V. E. sera la mas asertada.

MONTEREY, 20 *de Eno. de* 1844.

MANL. JIMENO.

MONTEREY, *Eno.* 20 *de* 1844.

De conformidad con el anterior informe.

MICHELT'A.

Filed in office Jan'y 22, 1853.

GEO. FISHER, *Sec'y.*

154 First seal, six dollars. Provisionally qualified by the maritime custom-house of Monterey, for the years 1842 and 1843.

ANTONIO MA. OSIO.

ALVARADO.

C.—Translation.

Custom-house stamp. Juan B. Alvarado, Constitutional Governor of the department of Californias:

Whereas the citizen Francisco Soto has claimed for his personal benefit and that of his family, "a sitio de ganado mayor" in the tract called San Lorenzo, the limits of which are from the creek of that name to that called El Alto, belonging to Don Jesus Vallejo, and from this creek drawing a right line to pass by the rodeo to the beach, and from this point to the first ridge which the hills form, excepting the number of varas that have been conceded in said tract to Dn. Guillermo Castro, which shall be determined at the time of the possession, having first made the proper inquiries and investigations according to what is directed by laws and regulations, using
155 the powers which are conferred on me, in the name of the Mex-

ican nation, I have conceded to him the said tract, declaring to him the ownership of the tract by these present letters, subject to the approbation of the most excellent departmental junta, and under the following conditions :

1st. He may enclose it without prejudice to the crossings, roads and servitudes, enjoy it freely and exclusively, appropriating it to the use or cultivation which best suits him ; but within one year he shall build a house, and it shall be inhabited.

2d. He shall solicit from the respective judge that he give him juridical possession in virtue of this despatch, by which shall be marked the boundaries, in the limits of which he will put, besides the land-marks, some fruit trees or useful wild ones.

3d. The tract of which donation is made is of "one sitio of ganado mayor," according as explains the map which goes attached to the respective record, (espediente.) The judge who shall give him possession shall cause it to be measured according to ordinance,
156 the overplus which shall result remaining to the nation for its convenient uses.

4th. If he contravene the conditions he will lose his right to the land, and it shall be denounceable by another.

In consequence I have ordered that, holding for firm and valid the present, account be taken of it in the book to which it belongs, and be delivered to the interested party for his security and other ends.

Given in Monterey, the 10th of October, 1842.

JUAN B. ALVARADO.
MANUEL JIMENO,
Secretary.

This despatch is noted in the book of records of vacant lands, at page 16.

JIMENO.

The most excellent señor governor has directed that note be taken of this concession in the prefectorship of the 1st district.

JIMENO.

157 The day, 17th of January, 1844, by agreement which Don Carlos Castro, as agent of his son, D'n Guillermo, celebrated with D'n Francisco Soto, it resulted according to the acts which to that effect were extended; that the limits of the tract of the said D'n Guillermo Castro shall be from the ditch, which is seen from the side of his house towards the south, and from the same ditch, from where it is parallel with it, shall be measured six hundred varas in direction of the main road, and from where they conclude shall be taken a right line to the arroyo of San Lorenzo, recognizing for limits on the other side of the Sanjon ditch, the margin of the range of hills which is toward the plain, measuring ten varas up the hills westwardly ; and the E. S. governor general, D'n Manuel Micheltorena, having approved the said agreement, he ordered that it should be noted on this title, and he signed it.

MANUEL MICHELTORENA.

158 Fifth seal.—One real.

Provisionally qualified by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years 1844 and 1845.

{ Custom-house } MICHELTORENA.
{ seal. } PABLO DE LA GUERRA.

MONTEREY, *Jan'y 20th*, 1844.
Let the secretary of despatch report.
MICHELTOR'A.

MOST EXCELLENT SIR: Francisco Soto, resident of the pueblo of San José, before your excellency, with all respect says: That the title in which is conceded to him the tract which he occupies in the place called San Lorenzo expresses to have an extension of one sitio, a little more or less; that the overplus which it may have toward the beach, according to a prudent calculation, may be half a sitio, the which I beg y'r E. to be pleased to concede to me. Since united to the other it will be of much benefit to me, and I shall be forever grateful.

I swear, &c.

Monterey, 20 January, 1844.

Most excellent sir.

FRANCISCO SOTO.

159 MOST EXCELLENT SIR GOVERNOR: The tract which D'n Francisco Soto claims in extension. It appears that there is not any inconvenience in conceding to him; but, subjecting himself to the limits which his first title expresses, and to the agreement finally celebrated with D'n Carlos Castro, the determination of y'r E. will be the most certain.

Monterey, 20th January, 1844.

MANUEL JIMENO.

MONTEREY, *January* 20, 1844.

In conformity with the foregoing report.

MICHELTORENA.

Filed in office Jan'y 22, 1853.

GEO. FISHER, *Sec'y.*

Field-notes of a tract of land known as the San Lorenzo rancho, claimed by Barbara Soto and others.

Part of Exhibit W. W., R. T., No. 3, annexed to dep. of H. A. Higley.

I hereby certify that on the 16th of September, 1853, I proceeded to make a survey of the above rancho, on the order of A. M.
160 Crane. Among the papers from which the survey was to be made, I found one entitled a copy of a grant from Alvarado to Fran'co Soto of one square league of land, embraced within the following boundaries: From the San Lorenzo creek to the arroyo Alto; thence through the rodeo to the beach; thence to the first tongue of land which form the Lomeria (hills;) this grant not giving the start-

ing point of the eastern boundary on the San Lorenzo creek, nor its termination on the arroyo Alto. I found from another document, entitled copy of the petition of Barbara Soto and others, before the board of the U. S. land commissioners, that the crest of the hills was claimed as the eastern boundary. The range of hills not extending to the San Lorenzo, a narrow valley, intervening that point on the creek, was assumed for the N. E. corner of the tract where the general course of the crest of the hills, if continued, would intersect it. Not being able to find the rodeo mentioned in the grant, from the crest of the hills near the arroyo Alto, I run a line to the beach,
161 supposed to be the northern boundary of Vallejo's land, in the direction of a prominent peak of the ocean range of mountains on the west side of San Francisco bay; the following being the actual field-notes of the survey:

Begun at the NE. corner of the tract, being a sycamore tree, marked with two notches on the SE. side, on the south bank of the San Lorenzo creek; from this tree ran S. 31° 43 E., at 39.50 across arroyo; at 45 chs. cross arroyo; at 49.50 × do. 85 chs. to large wooded gulch, 121.21 chs. to summit of hill and end of course. 2d. Run S. 51¼ E. 38.88 chs. to a pile of rocks. 3d. So. 55° E., 16.12 chs. to a pile of rocks. 4th. S. 63½ W., at 35 chs. cross wire fence at foot of hills; at 40.50 chs. cross arroyo Alto; at 89 chs. cross the same; at 93.42 chs. cross fence; at 165.75 cross wire fence, 288.29 chs. to a house on line, 360 to marsh and end of course. 5th. N. 29½, at 225.10 chs. cross run; at 297 + Castro's fence, 351.00 chs. to same tongue of land, 352 chs. top of do. about 3 chs. from NW. end, 357.00 to San Lorenzo creek. S. 44½ 11.00 chs. up SW. side of creek.
162 7th. S. 49½ E. 8.28 chs. 8th. S. 67¼ E. 7.50 chs. 9th. 53¾° E. 8.10 chs. 10th. N. 87½ E. 750 chs. 11th. N. 65½ E. 19.00 chs. N. 10° E. 585 chs. N. 14° W., 613 chs. to place of beginning. The tract as surveyed comprising 3,796 acres.

The papers from which the survey was made being herewith annexed.

H. A. HIGLEY,
County Surveyor.

Alameda county, Sept. 8th, 1853.

Filed in office Nov. 30th, 1854.

GEO. FISHER, *Sec'y.*

Affidavit.

U. S. LAND COMMISSION, &c.

BARBARA SOTO & *al.*
vs.
THE UNITED STATES. } No. 524.

SAN FRANCISCO, CALIF'A.

This day appeared before the board of commissioners cre-
163 ated by act of Congress of the 3d March, 1851, entitled An act to ascertain and settle the private land claims in the

State of California, the undersigned, Charles W. Hathaway, who, being duly sworn, makes oath that the land claimed in the above case was, at the time of presenting the same to this honorable board, in the county of Contra Costa, State of California, and that by a subsequent act of the legislature of the State aforesaid, creating the new county of Alameda, the said land is now embraced within the bounds of the said county of Alameda.

C. W. HATHAWAY.

Signed and sworn to before the commissioners, sitting as a board, this 1st day of May, A. D. 1855.

Attest: GEO. FISHER, *Sec'y.*

Filed in office May 1, 1855.

GEO. FISHER, *Sec'y.*

Recorded in journal, vol. 4, pages 280–281.

GEO. FISHER, *Sec'y.*

164 BARBARA SOTO & *al.* *vs.* THE UNITED STATES. } No. 524.

Bill of exceptions.

The claimants, by their counsel, object to the introduction of the espedientes this day filed by the U. S. law agent, viz: two espedientes from the office of the surveyor general, at the instance of Guillermo Castro, and a third being at the instance of José Joaquin Estudillo, because they are incompetent and irrelevant as evidence in the case, and so incumber the record of the case now submitted.

Filed in office Dec. 19th, 1854.

GEO. FISHER, *Sec'y.*

Recorded in journal, vol. 4, page 146.

GEO. FISHER, *Sec'y.*

165 *Opinion of board by Com. Farwell.*

BARBARA SOTO *et al.*, in trust for, &c., *vs.* THE UNITED STATES. }

For a place called San Lorenzo, in the county of Contra Costa, containing one and a half square leagues.

The proofs in this case show the following state of facts: That Francisco Soto presented his application to Governor Juan B. Alvarado, together with a map bearing a description of the place, asking a grant to the land, and that, in pursuance thereof, the said governor did issue a grant to the said Soto on the 10th day of October, 1842, and describing the boundaries, excepting inside of the boundaries five hundred varas square that had previously been conceded to Guillermo Castro, and directing the same to be measured and the boundaries fixed.

It also appears that some difficulty arose between the said Soto and Castro in respect to the boundaries, which was subsequently mutually arranged and settled between the parties, and a written stipulation
of that settlement sent up to the governor and filed in the
166 archives of state, which said agreement fixed and settled the boundaries of the previously conflicting lines of the claims.

On the 20th day of January, 1844, after the piece granted to Castro had been segregated and the boundaries settled, Soto applied for a concession of the sobrante within the boundaries of the place called San Lorenzo, which application was referred ' Jimeno, the secretary, for his report, and on the 20th day of January, 1844, a report was made by the said secretary, recommending the said concession, and that the petitioner be confined within the boundaries specified in the first grant and espediente.

Appended to the report of the secretary we find the following note:

MONTEREY, 20*th January*, 1844.

In conformity with the foregoing report.
(Signed) MICHELTORENA.

We are not able to give the foregoing report any other construction than that Governor Micheltorena intended thereby to concede
to the applicant the prayer of his petition, agreeable to the
167 recommendation of his secretary.

The proofs are clear in establishing the fact of the death of the grantee and the heirship of the persons named in the petition, and also that the present petitioner is the lawful administrator of the estate of the said deceased, and thereby entitled to the custody of the real estate of the deceased.

The proofs also clearly establish the proper settlement and cultivation. We are of the opinion that this claim is well made out, and a decree of confirmation will be entered, giving to each their several rights, agreeable to the State of California.

Confirmed.

Filed in office April 24, 1855.

GEO. FISHER, *Sec'y.*

Recorded in record of decisions, vol. 2, page 629.
GEO. FISHER, *Sec'y.*

168 *Decree.*

BARBARA SOTO *et al.*, in trust for the heirs of Francisco Soto, dec'd,
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the said petitioner is valid; it is therefore decreed that their application for a confirmation thereof be allowed.

The land, of which confirmation is hereby given, is known by the name of San Lorenzo, situate in the late county of Contra Costa, now Alameda, bounded as follows, to wit: on the north by the creek of San Lorenzo; on the west by the bay of San Francisco; on the south by the rancho of Jesus Vallejo; on the east by the foot of the San Lorenzo hills, saving and reserving six hundred varas square, belonging to William Castro, situate near the foot-hills on the eastern line.

R. AUG. THOMPSON,
S. B. FARWELL,
Commissioners.

169 Filed in office April 24, 1855.

GEO. FISHER, *Sec'y.*

Recorded in record of decisions, vol. 2, page 630.

GEO. FISHER, *Sec'y.*

And it appearing to the satisfaction of the board that the land hereby adjudicated is situated in the northern district of California, it is hereby ordered that two transcripts of the proceedings and decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary—one of which shall be transmitted to the clerk of the United States district court for the northern district of California, and the other transmitted to the attorney general of the United States.

Secretary's certificate.

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing one hundred and twenty-four
170 pages, numbered from 1 to 124, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses, upon which the same is founded, on file in this office, in case No. 524 on the docket of the said board, wherein Barbara Soto *et al.* are the claimants, against the United States, for the place known by the name of "San Lorenzo."

In testimony whereof, I hereunto set my hand and affix my private [SEAL.] seal, (not having a seal of office,) at San Francisco, California, this twentieth day of October, A. D. 1855, and of the independence of the United States of America the eightieth.

GEO. FISHER, *Sec'y.*

Endorsed: Filed Oct. 23, 1855.

JOHN A. MONROE, *Clerk.*

171 *Notice of appeal.*

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
Washington, 3 *December*, 1855.

(524.—"San Lorenzo."—Barbara Soto *et al.*, claimants.)

You will please take notice that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceeding in which was received in this office on the 20th day of November, 1855, the appeal in the district court of the United States for the northern district of California will be prosecuted by the United States.

C. CUSHING,
Attorney General.

Endorsed: Filed Febr'y 11, 1856.

JOHN A. MUNROE, *Clerk*,
By W. H. CHEVERS, *Deputy*.

172 *Petition.*

To the honorable district court of the United States in and for the northern district of California.

THE UNITED STATES, appellants,
vs.
BARBARA SOTO *et al.*

The petition of the United States, by their attorney, represents that this cause is an application for a review of the decision of the board of commissioners, whereby the claim of the said appellee was confirmed, as appears by reference to the records in the case; that a transcript of the said records was filed in this court on the 23 day of October, 1855; that a notice of appeal was filed on the 11 day of February, 1856, and that the land claimed lies in the said district; that the said claim is invalid. Wherefore, appellants pray that the said decision of the board be reversed, and that this court decree the said title to be invalid.

Respectfully, &c.,

S. W. INGE,
U. S. Dist. Att'y.

173 Endorsed: Filed Febr'y 11, 1856.

JOHN A. MONROE, *Clerk*,
By W. H. CHEVERS, *Deputy*.

Answer.

In district court of the United States, northern district of California.

BARBARA SOTO & *al.*, appellees, *ads.*
THE UNITED STATES, appellants.

The answer of the above-mentioned appellees to the petition filed in this case on the part of the United States.

For answer to said petition, the said appellees answer and say: It is true that the said land, described in the said transcript of the proceedings and decision of the said board of commissioners, and of the papers and evidence on which the same were founded, lies in said northern district, and within the jurisdiction of this court; but
174 they deny that their title to the same is invalid, and aver that the same is valid, and pray this honorable court to decree the validity of their title and claim to the said lands.

THORNTON, WILLIAMS & THORNTON,
For Appellees.

Endorsed: Filed Febr'y 11, 1856.

JOHN A. MONROE, *Clerk*,
By W. H. CHEVERS, *Deputy*.

Dep. of Chas. B. Strode.

United States district court, northern district of California.

SAN FRANCISCO, *March* 17, 1857.

On this day, before Cutler McAllister, commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Charles B. Strode, a witness produced on behalf of the claimant in case No. 300, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 524 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

175 Present: J. B. Williams, esq., att'y for claimant, and the U. S. dist. att'y, and B. W. Leigh, esq., on behalf of the U. S.

Questions by att'y for claimant.

Ques. Name, place of residence, and occupation?

Ans. C. B. Strode; San Francisco; I have been a practicing lawyer for six years in the city of San Francisco, where I now reside.

Ques. Look upon the document now shown you, and marked "Exhibit A," and attached to this deposition, and state whether or not you ever saw this document before; if yea, when and where?

Ans. In the last of 1850, or the first of 1851, I became the law copartner of William Carey Jones. Our office was in the city of San Francisco, and our principal business the attending to Mexican and

Spanish law titles. In the beginning of 1852 we commenced purchasing very largely of ranchos, sometimes bought in the name of one and sometimes in the name of the other; but in all we were
176 equally interested, without regard to the name in which they were purchased. We were employed as the lawyers for the claimants of this land, under the name of Jones, Tompkins, and Strode, and in connection with Messrs. Williams and Warmcastle, of the town of Martinez, in the county of Contra Costa. Some time in the year 1852, as well as I can recollect, not being accurate about dates, Mr. Jones and myself determined to purchase one-half of this ranch now claimed by Barbara Soto and als., if we could, it being for sale. The title papers had been committed to the care and charge of my partner, Mr. Wm. Carey Jones. He took the entire management of the case. I did not examine the papers until I determined to purchase the same, if it suited me. At that time it became a matter of importance for me to examine the map of the land and to look at the land itself before I should decide what price I would be willing to pay; for this reason, and not to manage the case, as that had been committed to Mr. Jones, I had to examine the papers. On the question of title I depended entirely on the opinion of Mr. Jones;
177 but I looked then at the title papers, not to examine the right of the claimants in law to some lands, but what particular land they did own. Being with and, I believe, attached to that bundle of papers was a map; I looked at it with the scrutiny of a man investing a large sum of money. This fact impressed upon my mind the appearance of the paper and the circumstances connected with it. I purchased one-half of the land in the name of Mr. Jones and another individual. I do not remember in whose name the papers were made out, because for the reason that within a day or two afterwards we sold our interest in the said rancho to L. A. Brady for the profit of five thousand dollars. During the examination of the limits of the land spoken of before, I examined the map of which I have spoken, and I believe the paper now marked "Exhibit A" is the identical paper. The paper was in our possession as lawyers for the claimants of the ranch, and I feel as certain about this paper as I can about a paper that I have not seen for the same length of time, and that has not my signature upon it, or some other certain and
178 absolute mark upon it. My conviction, however, is so strong that I am almost absolutely certain it is the same paper. I did not see this paper from the time I examined until within the last few days. Why it was not filed I do not know, as the papers were in the possession of Mr. Jones. The absence of that paper was for a long time the subject of anxious and frequent examinations for it. How it was finally found I only know by the information of one of the claimants. I believe Mr. Wm. Carey Jones is in the city of Washington, District of Columbia. I am informed, both by Mr. Jones and his brother, H. P. Jones, as well as by what I knew and saw, that his papers were left in the possession of H. P. Jones, who is his brother.

Cross-examination.

Ques. Who put that paper in your hands?

Ans. Nobody; I only saw it in the possession of Mr. Jones. I did not see the papers delivered to Mr. Jones. My only information was derived from my partner, and from seeing him with the papers,
179 and from knowing that a portion of the fee was paid, and knowing that we were employed in the case; and I got my part of the fee, except as to the part now owing, as I assigned my interest to Mr. Jones at the time of the dissolution of the copartnership in 1853.

Ques. Was that map shown to you?

Ans. This map was shown to me by Wm. Carey Jones, he taking it from a large tin box which was generally deposited in bank.

Ques. As what was that map shown to you?

Ans. As the map of the Barbara Soto ranch, of which I wished to purchase her interest, she being the widow of the man to whom the grant was made. Having no knowledge of where the map was made, I acted upon my opinion of the map at that time without knowing whether there were others; it satisfied my judgment, which judgment was made from information received from others.

Ques. Do you know whether this map was a map of the original grant or of the sobrante?

180 Ans. I do not. I saw a bundle of papers with this map, but this was the only one I examined; they were either attached to this map or with it.

Ques. Do you know whether this map was attached to or accompanied the original grant or petition, or was merely a disconnected sketch of the land?

Ans. I neither filed the petition nor prepared the case of the claimants. In the bundle of the papers which we were to examine, and on which we were to file the petition, was this paper. The contents of those papers I cannot swear to, never having read them. Those papers were understood in the office to be the title papers to this ranch. This bundle was marked on the outside "Title Papers." This bundle may have contained other papers than the title papers, or may not have contained the title papers, or may have contained nothing but the title papers; I cannot say, as I did not examine them, but can only speak the understanding of the office—what I un-
181 derstood myself, and what my partner told me he understood during our consultations.

C. B. STRODE.

Sworn to and subscribed before me this 17 March, 1857.

CUTLER McALLISTER,
U. S. Com'r.

(Here follows map, p. 181.)

182 Endorsed: Filed March 19, 1857.

JOHN A. MONROE, *Clerk*,
By W. H. CHEVERS, *Deputy.*

183 *Dep. of Francisco Arce.*

United States district court, northern district of California.

SAN FRANCISCO, *March 19th*, 1857.

BARBARA SOTO *and als.*
vs.
UNITED STATES.

On this day, before Jno. A. Monroe, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Francisco Arce, a witness produced on behalf of the claimant in case No. 300, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 524 on the docket of the said board of commissioners, and was duly sworn, and testified as follows, his evidence being interpreted by Wm. Meeks, a sworn interpreter.

Present: U. S. district attorney, and Thornton and Williams for claimant.

Questions by claimant's counsel.

1st. What is your name, age, and occupation, and residence?

Answer. My name is Francisco Arce; aged 34 years; am a
184 ranchero; and reside in the county of Monterey.

2d. In what government employ, if any, were you during the years 1842, 1843, and 1844?

Answer. I was the head clerk of in the department of the government; that is, in the secretary's office.

3d. As such clerk, did you know anything of a grant of land to Francisco Soto? If yea, state all you know in regard to it.

Answer. There was a grant made to Francisco Soto by Governor Alvarado to the land of San Lorenzo. After the grant made by Alvarado there was another grant made by Micheltorena to Soto, for about a half sitio, to complete the land, and carry out the original grant. The additional grant was out of a sobrante which remained from the original grant, or after the original grant was satisfied. The last concession made by Alvarado was made in my own handwriting.

185 4th. Did you see in the office of the secretary the documents relating to the title which were submitted to the governor?

Answer. I did.

5th. Look on the document now shown you, marked A, and attached to the deposition of C. B. Strode heretofore taken in this case, and say whether or not you ever saw it before; if yea, state all you know in regard to it.

Answer. The plan or map exhibited to me is exactly like the plan or map which was presented, together with the other papers referred to, and I recognize the handwriting thereon, and that the same can be found in the archives of record. It is very like that of one Jos

Garcia. Garcia was a Chilian, and secretary of court at San José, and he died during the war of 1846. I think this map is the same that was with the other papers in the secretary's office.

FRAN'CO ARCE.

Sworn and subscribed before me this 19th March, A. D. 1857.

JOHN A. MONROE,
U. S. Comm'r.

186 Endorsed: Filed March 23, 1857.

W. H. CHEVERS, *Deputy.*

Dep. of Wm. Castro.

My name is Guillermo Castro; age 47 years; am a ranchero, and live in Alameda county. I know the rancho of San Lorenzo, which was granted to Francisco Soto. I am one of the colindantes of that rancho.

Question. Did you ever see the title papers of Francisco Soto to the rancho mentioned?

Answer. I have, several times.

Question. Was there a diseño among them?

Answer. There was.

Question. Look at the map marked Exhibit A, attached to the deposition of C. B. Strode, in this case, and state whether or not it is the same map which you saw, as above stated, and all that you know in regard to the matter.

187 Answer. I believe it is the same. On various occasions, when Mr. Soto wanted to make arrangements with me, this map was produced, and I saw it.

Question. What was the form of the land granted to Francisco Soto, and what were its boundaries?

Answer. The grant was for a square-shaped piece of land, and it was bounded on the east by my land; on the northwest by creek of San Lorenzo, and the line of Estudillo; on the west by the beach; and on the south, the land of Vallejo. The points of the southern line runs with the Arroyo del Alto, from there a straight line will be taken to the rodeo and beach.

Cross-ex'd.

Were there two grants to that land?

Answer. There was. One was by Alvarado, and one by Micheltorena. One was for a sobrante; the sobrante laid on all sides of the original grant. The grant was of a square form, originally. The original grant brought the land down to the beach, as is in the map.

188 GUILLERMO CASTRO.

Sworn and subscribed before me this 19th March, A. D. 1857.

JNO. A. MONROE,
U. S. Commissioner.

Endorsed: Filed March 23, 1857.

JOHN A. MONROE, *Clerk,*
By W. H. CHEVERS, *Deputy.*

Dep. of Antonio Ma. Pico, on behalf of the claimant.

United States district court, northern district of California.

SAN FRANCISCO, *March* 18, 1857.

On this day, before Cutler McAllister, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Antonio Maria Pico, a witness produced on behalf of the claimant in case No. 300, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 524 on the docket of the said board of commissioners, and was duly sworn, and tes-
189 tified as follows, his evidence being interpreted by William Newton Meeks, a sworn interpreter.

Present: J. J. Williams, esq., on behalf of the claimants, and the U. S. dist. att'y.

Questions by claimant's attorney.

Ques. Your name, age, and place of residence?

Ans. Antonio Maria Pico; 47 years. I live in San José.

Ques. What offices have you held under the Mexican government, and during what years did you hold them?

Ans. I held the offices of alcalde and commander of militia in San José during the year 1835, from that time until 1845.

Ques. Do you know the rancho called San Lorenzo, claimed in this case by Barbara Soto and others?

Ans. I know it.

Ques. Were you ever called upon to perform any official act with regard to this ranch?

190 Ans. I was. I gave an order to my secretary that a petition should be made to me, making it in conformity with the papers to which I refer were those of the husband of Barbara Soto, now deceased. Soto himself made the petition, asking me for juridical possession. After I required the petition to be in writing, Soto procured my secretary to write it out for him.

Ques. At the time this application was made to you for juridical possession, were any papers placed in your hands by Soto relating to his rancho of San Lorenzo? If yea, what were these papers?

Ans. Yes; he placed them in my hands. I told him to bring the papers. He did so, and afterwards he carried them away. These papers were the grant made to Soto and various other papers forming the expediente.

Ques. Do you remember whether or not there was a diseño among them?

Ans. I have an idea that there was among those papers a plan or a diseño.

191 Ques. Look at the document now shown you marked "Exhibit A," and attached to the deposition of C. B. Strode,

heretofore taken in this cause, and say whether or not you ever saw that document before.

Ans. This exhibit now shown me is exactly as the land was, and that, as I stated before, it is my idea that I saw this plan before. I believe this to be the paper which I think I saw at that time among the papers pertaining to the San Lorenzo ranch.

Ques. Do you know the handwriting on that map? If yea, whose is it?

Ans. I think it is the handwriting of my secretary, Garcia. It is a long time since, but I believe it to be his handwriting. Garcia died in the campaign between the Americans and Californians, I think in 1846.

Ques. Were these papers above referred to delivered to you by Soto for the purpose of enabling you to give him juridical possession of this rancho?

192 Ans. They were.

Cross-examination.

Ques. State the time when Soto's petition for juridical possession was presented to you.

Ans. On the 8th of January, 1844.

Ques. Was the petition you refer to in your examination in chief for the land originally granted or for the sobrante?

Ans. It was for the land originally granted; that is to say, the land in the centre comprised within these boundaries: On the south by an arroyo or stream called Del Alto, in a straight line to the rodeo, and thence to the sea, the same as described in the plan now before me, where the lands of Don Guillermo Castro are in the northern boundary; on the west the sea; the east is bounded by the lands of Don Guillermo Castro.

Ques. Did you give juridical possession yourself to Barbara Soto?

193 Ans. No. I did not go myself. I was ready to go, when the husband of Barbara Soto was taken sick and I delayed going.

Ques. Was juridical possession of the land ever given at all by any one?

Ans. Besides what I have done myself I know nothing.

Ques. How do you know that the land is bounded on the west by the bay?

Ans. Because it is so in the papers. I have seen it so.

Ques. Do you mean by the papers the title among them?

Ans. Yes; the title.

Ques. Do you know if there was a sobrante granted to Barbara Soto or her husband?

Ans. Yes, sir.

Ques. On what side of the original grant did the sobrante lie?

194 Ans. In the direction where Castro is; in the part below.

Ques. Look at the map and state upon which side of the original grant the sobrante laid?

Ans. I do not remember where it was, because there was an arrangement made between Castro and Soto in regard to everything.

Ques. Point out on the map where Castro's land lay.

Ans. On the side of the San Lorenzo and the Lomerias, across the San Lorenzo creek.

Ques. Was the sobrante granted first, or the other tract?

Ans. The first was Alvarado's grant.

Ques. In identifying this map, do speak from seeing it now, or from your recollection of the fact of having seen it before?

Ans. It is because I have stated before that on seeing it
195 now I have an idea that I have seen it before. It is so long since that I would not have a distinct impression of it.

Ques. Are you certain that you saw this map at the time you saw the papers referred to?

Ans. I have said already that I have an idea it is the map.

Ques. Was the grant for the sobrante among the papers you saw?

Ans. Yes, it was.

Ques. Was the estero or mar the western boundary of the original grant, or that of the sobrante?

Ans. I do not remember exactly.

ANTONIO M'A PICO.

Subscribed and sworn to before me this 18th March, 1857.

CUTLER McALLISTER,
U. S. Com'r.

Endorsed: Filed March 23d, 1857.

JOHN A. MONROE, *Clerk*,
By W. H. CHEVERS, *Deputy*.

196 At a stated term of the district court of the United States of America for the northern district of California, held at the court-house in the city of San Francisco on Thursday, the twenty-third day of April, in the year of our Lord one thousand eight hundred and fifty-seven.

Present: the honorable Ogden Hoffman, district judge.

THE UNITED STATES *vs.* BARBARA SOTO *et al.* } No. 300.—On appeal from the decision of the United States land commission, &c., &c.

Decree.

This cause coming on this day to be heard upon the transcript of the decision and proceedings of the board of land commissioners to ascertain and settle private land claims in California, and upon the papers and evidence on which the same are founded, the pleadings and further testimony taken under order of this court, was argued by

counsel; and thereupon, in consideration thereof, it is the opinion of this court that there is no error in the decision of the said
197 board; and the same should be, and is hereby, affirmed.

And this court doth, therefore, adjudge, order, and decree that the claim of the petitioners to the land in the said transcript described is valid, and the same is hereby confirmed to them. The land of which confirmation is hereby given is known by the name of San Lorenzo, situated in what was the county of Contra Costa, and now is the county of Alameda, and is bounded and described as follows, viz: On the north by the creek of San Lorenzo; on the west by the bay of San Francisco; on the south by the Arroyo del Alto, pertaining to Don Jesus Vallejo, and a straight line drawn from this creek to pass by the rodeo to the beach; and on the east by Don Guillermo Castro, according to the line of division agreed on and settled by the governor of California on the 17th day of January, 1844, a copy of which agreement is contained in the said transcript, and endorsed on the original grant in this case.

OGDEN HOFFMAN,
U. S. Dist. Att'y.

Endorsed: Filed April 23d, 1857.

JOHN A. MONROE, *Clerk*,
198 By W. H. CHEVERS, *Deputy Clerk.*

United States district court, northern district of California.

THE UNITED STATES *vs.* BARBARA SOTO *et al.* } Claiming the Rancho San Lorenzo.

Opinion.

The claim in this case is founded on two grants—one by Alvarado, dated Oct. 10th, 1842, and the other by Micheltorena, dated January 20th, 1844, for the sobrante of half a league contained within the boundaries of the first. The land was described in the first grant as follows: "One league, a little more or less, in the tract called San Lorenzo, the limits of which are from the creek of that name to that called 'El Alto,' pertaining to Don Jesus Vallejo; and from this creek, drawing a right line to pass by the rodeo, to the beach; and from this point to the first ridge which the hills form, excepting the number of varas which have been conceded in said tract to
199 Don Guillermo Castro, which shall be determined at the time of the possession."

At the time the grant issued Castro was owner of a tract of six hundred varas square, upon which he resided. He, in October, 1843, obtained a concession of a larger tract, which was described as "bounded by the rancho of Soto, on the side next the main road," it being considered that there has already been made a concession to the said Soto on the side towards the beach.

The main road alluded to crosses the tract from creek to creek, and it was contended by Castro that the main road was the western

boundary of his land ; and that the grant to him was a virtual settlement of the line between him and Soto, which in the grant to the latter had been left for subsequent adjustment.

Proceedings were instituted to settle this dispute, and it was finally determined by a compromise made with the approval of the governor. The line as thus settled was described in a document drawn up for the purpose, which appears in the archives, and a copy of which is endorsed on both expedientes.

200 The boundary of Castro as thus settled is as follows : "Commencing on the sanjon (or ditch,) where it is parallel with the southern side of Castro's house, and down the sanjon towards the main road six hundred varas, from which point, where they conclude, by a straight line to the San Lorenzo creek. The boundary on the other side of the sanjon is the margin (orilla,) of the hills towards the plain, measuring ten varas up on the hills."

These proceedings must be taken as a final and definite settlement of the eastern line of Soto's ranch, and as such it was acquiesced in, and recognized by the parties. The line thus designated can, as appears from the proofs, be readily located, and the testimony of the neighbors, particularly that of Guillermo Castro, shows that the location as determined from the description in the agreement, in no respect differs from the line as understood and recognized by the parties themselves, and neighboring rancheros.

On the twentieth of January, 1844, Soto addressed a petition to the governor, setting forth that the concession of the tract
201 which he occupies, called San Lorenzo, expresses to have an extension of one sitio (square league) a little more or less; that the overplus which it may have towards the beach may be half a sitio, which he begs may be conceded to him, as, united with the other, it would be of much benefit to him. On this petition the secretary reports that there is no objection to granting it, but that the petitioner must subject himself to the limits which his first title calls for, and to the agreement celebrated with Don Carlos Castro. On receiving this report, the governor acceded to the petition in the following words: "In conformity with the foregoing, Micheltorena."

It is objected that this was not a valid grant of the sobrante or overplus. But in the first place, it appears from the archives that the same formalities were rarely if ever observed in relinquishing a sobrante to the grantee, within the general limits of whose grant it was found as were deemed necessary in making an original concession or a grant of a sobrante to a stranger. The grant of the sobrante to him within whose limits it was found was little more than a
202 waiver or release of the condition of the original grant, which restricted him to a specific quantity, and the original grant (that condition being struck out) would by its terms convey the whole land within the limits designated. At all events, there can be no doubt in this case that the governor intended to accede to the petition; and the land having under this grant, or promise to grant, been long occupied and enjoyed, and on all hands recognized as belonging to the grantee, the latter has in any view an equitable right, which

the United States are bound to respect. The important question, however, in the case is as to the location of the southern boundary. The tract included within the original limits is claimed by the appellees to be in the form of a square or parallelogram, and bounded on the east by the line between Castro and Soto as it was fixed by the agreement heretofore alluded to: on the south by the Alto and a line through the rodeo to the beach; on the west by the beach; and on the north by the San Lorenzo.

It is contended, on the part of the United States, that neither
203 the San Lorenzo nor the beach is a boundary of the tract, but that the southern line must be run from the point where the rodeo line or northern boundary strikes the beach, to the first ridge which the hills form. If such a line be drawn, it would form a diagonal to the square claimed by the appellees, and the tract would have a triangular shape, with the agreed line between Soto and Castro as its base on the east, and with its apex touching the beach at a mathematical point.

The language of the grant has already been quoted. The words which it is contended call for this location are as follows: "And from this creek (El Alto) drawing a right line to pass by the rodeo to the beach, and from this point to the first ridge which the hills form, excepting," etc. It is claimed, and with much apparent reason, that the last line must be drawn from the "point" where the rodeo here strikes the beach, to the first cuchilla or ridge.

If the word "punta" had precisely the signification of the English word "point," as used in surveying, or if the grant had specified the "point" where the rodeo line strikes the beach as the
204 point from which a straight line was to be drawn to the cuchilla for the southern boundary, the construction contended for would be unavoidable. But the language is, "a straight line drawn to the beach, and from that point," etc. It does not in terms say "and from the point where said line strikes the beach;" it merely says "from that point," namely, from the beach. A reference to the beach generally by the term "punta," is certainly not in accordance with our use of language; but so far as I have been able to discover, such a construction of the term is not inadmissible in Spanish. If, however, there were no other guide to the intentions of the grantor, this construction might probably be deemed forced and unnatural. There are other considerations, however, which, I think, remove any reasonable doubt as to its propriety.

In fixing the limits of land to be granted, both the law and usage of the Californians required them to adopt, as nearly as possible, a rectangular or square figure. This was not in all cases practicable, but in a country used almost exclusively for grazing, and
205 where no fences were built, it became necessary to designate great natural objects as the boundaries of the tracts conceded. It seems, therefore, extremely improbable that in this instance the natural and obvious boundary afforded by the shore of a great estuary should be wholly neglected, and the land should assume the form of a triangle, having only a mathematical point at its apex resting on

the beach, while one of the sides should diagonally cross the centre of a large plain with no visible object throughout its length, except at its extremities, to determine its location. This is the more improbable, as the whole of the neighboring land had been before, or was subsequently granted, and the piece of land excluded by the diagonal line alluded to, if not embraced within the grant to Soto, has remained, from some unexplained reason, the only piece of ungranted land in the vicinity.

The original grant to Soto was for one league within the limits specified. He subsequently, as we have seen, obtained the sobrante of about half a league more. This was after the boundary between him and Castro had been fixed.

206 Taking, then, that boundary as determined, there is found within the limits, as claimed by him, about one square league and a half, precisely the quantity granted to him in the two grants. But if the diagonal line be drawn as proposed, he would have but about two-thirds of a league in all, leaving his sobrante grant wholly inoperative; for even his first grant of one league could not be satisfied out of the tract so limited. It is to be borne in mind that Soto did not petition for an augmentation or extension, but for a sobrante or overplus—the excess within the original boundaries over and above the quantity to which he was restricted. This excess he states to be about half a league, while he also mentions that his first grant was for one league.

If, then, the limits of the land, as designated in his grant, after the Castro line was fixed, included less than a league, as is now contended, the petition for a sobrante of half a league more within those limits was absurd. Had he or the governor supposed that the quantity already granted could not be found within the limits of

207 the tract, it is not to be supposed that one would have asked for, and the other conceded, half a league more within those limits. In such case he would have asked for, not a sobrante, but an augmentation, and would have obtained his additional quantity outside of and beyond his original boundaries. The fact that the land, according to the boundaries he contends for, is nearly exactly the quantity (one league and a half) granted to him, seems to me almost conclusive as to what he intended to ask for and the governor to give.

The value of land to the former inhabitants of this country, in a great degree, depended upon the existence of abundant supplies of fresh water, or "agua dulce," for cattle. The line proposed would not only form an acute angle at the beach, but would touch the San Lorenzo creek only at a single mathematical point, thus cutting off all access to that stream, and either depriving the rancho altogether of fresh water, or else affording it at the El Alto alone, for a short distance. The adjoining rancho at the south is bounded by the San Lorenzo, and it is improbable that in fixing the limits of a cattle rancho, access to that stream should have been denied to Soto,

208 when the land between his rancho and it was unoccupied and ungranted, and the governor was willing, on his mere suggestion, to increase the quantity given him by an additional half

league. If, with these considerations in our minds, we recur to the grant, its intention seems obvious. It does not profess to give the boundary lines except on one side of the tract, but "its limits." Its longitudinal limits are declared to be from the San Lorenzo to the Alto, and the rodeo line to the beach. Having thus determined its length, the grantor indicates its breadth, viz: from the beach to the first crest of the hills.

He does not mention any point in the crest of the hills, which would have been natural if he had intended to fix, as a southern boundary, an imaginary straight line drawn from the point where the rodeo line struck the beach to the crest; and the indefiniteness of this description, referring, as it does, to a line on the summit of a range of hills, rather than to a point on those hills, seems to show that the intention of the grantor was merely to fix the latitudinal limits of the tract, viz: the beach and the crest, rather than
209 to describe a line as a precise boundary.

But all doubt on this subject is removed if the diseño produced be received as the original on which the grant was made. It is shown beyond any reasonable doubt, that it was, with the other title papers, placed in the hands of eminent counsel in this city, in whose custody it has ever since remained. By some oversight, it was not put in evidence before the board, but A. M. Pico, Francisco Arce, and G. Castro testify that it is either the identical map, or one exactly resembling that which was handed to Pico when about to give judicial possession to Soto. This map is unusually rude, but the form of the tract is sufficiently indicated to show it to be a square or parallelogram, with the beach as its western boundary.

A further confirmation of these views is found in the report of Jimeno at the time of the dispute between the governor and Castro. "It appears to him," he says, "convenient to measure to Soto the league, more or less, which has been granted him, from the beach to the "lomas," or hills, but always on the side of the Arroyo
210 del Alto, because those are the limits which have been marked out, and from these limits he should follow those of Don G. Castro."

He was thus, according to Jimeno, to have a league on the side of the Alto, from the beach to the hill, and from the Alto to the San Lorenzo, following Castro's boundary. The sobrante, after measuring the league, would have lain between the beach and the San Lorenzo, and would have been, as the testimony shows, about half a league in extent, if measured after the Castro line was determined, and it was precisely this sobrante of half a league which Soto asked for and obtained.

If to all this be added the fact that Soto himself always claimed, and was regarded by his neighbors as owning the whole tract between the beach and the Castro line, and between the Alto and rodeo line and the San Lorenzo, the conclusion is irresistible that such are the true boundaries of the grant.

The board confirmed the claim to the land within these boundaries, and I see no reason to reverse their decree.

211 *Attorney Gen'l's letter and stipulation.*

CALIFORNIA LAND CLAIMS,
Attorney General's Office, 2 *March*, 1857.

SIR: In the case of the claim of Barbara Soto *et al.*, confirmed to the claimants by the commissioners, case No. five hundred and twenty-four, (524,) appeal will not be prosecuted by the United States.

I am, respectfully,

C. CUSHING.

WM. BLANDING, Esq.,
U. S. Attorney, San Francisco.

In the district court of the U. S., northern district of California.

THE UNITED STATES
vs.
BARBARA SOTO *et al.* } D. C. 300. L. C. 524.

In pursuance of a notice from the U. S. Attorney General, hereunto annexed, it is hereby stipulated and agreed that no further appeal be taken in this case, on the part of the United States, and that claimants have leave to proceed under the decree of this court,
212 heretofore rendered in their favor, as under final decree.

San Francisco, Ap'l 29, 1861.

WM. BLANDING, *Dist. Att'y.*
THORNTON, WILLIAMS & THORNTON,
Att'ys for Claimants.

Endorsed: Filed April 29, 1857.

JOHN A. MONROE, *Clerk*,
By W. H. CHEVERS, *Deputy.*

Order vacating appeal.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room, in the city of San Francisco, on Wednesday, the 29th day of April, in the year of our Lord one thousand eight hundred and fifty-seven.

Present: The honorable Ogden Hoffman, district judge.

THE UNITED STATES
vs.
BARBARA SOTO *et al.* } D. C. 300. L. C. 524.

213 The Attorney General of the United States having given notice that appeal will not be prosecuted in this case, and a stipulation to that effect having been entered into by the U. S. attorney—

On motion of the district attorney, it is ordered, adjudged, and de-

creed that claimants have leave to proceed under the decree of this court, heretofore rendered in their favor, as under final decree.

OGDEN HOFFMAN,
U. S. Dist. Judge.

Endorsed: Filed April 29, 1857.

JOHN A. MONROE, *Clerk*,
By W. H. CHEVERS, *Deputy*.

Order to return survey.

United States district court, northern district of California.

THE UNITED STATES } U. S. D. c't, No. 300.
vs. }
BARBARA SOTO *et al.* } U. S. l'd com'n, No. 524.

It being suggested to the court that the survey of the land claimed in this case, made under final decree and approved by the United States surveyor general for the State of California, is erroneous, on application of Robert Simson, attorney of said Barbara Soto & als., it is ordered that said surveyor general return to this court a certified copy of the plat of said approved survey, and that said Barbara Soto & als. be allowed fifteen days from and after the return thereof to file exceptions thereto; and it is further ordered that a certified copy of this order be served upon said surveyor general for his information.

214

Endorsed:

U. S. MARSHAL'S OFFICE,
San Francisco, Dec. 3d, 1859.

I have this day made personal service of this order on James W. Mandeville, U. S. surveyor general for California, by delivering to him a true copy thereof, and exhibiting to him this original.

P. L. SOLOMON,
U. S. Marshal.

Filed Nov. 22, 1859.

W. H. CHEVERS, *Clerk.*

(Here follows map, p. 214.)

215 *Order extending time to file objections to survey.*

United States district court, northern district of California.

THE UNITED STATES } U. S. district court, No. 300.
vs. }
BARBARA SOTO *et al.* } U. S. land com'n, No. 524.

On application of Robert Simson, attorney for said Barbara Soto *et al.*, it is ordered that they have until Monday, the seventeenth day of February, 1860, to file exceptions to the certified copy of the plat

of survey of the lands claimed in this cause heretofore returned to this court by the U. S. surveyor general for the State of California, in addition to the fifteen days heretofore allowed to said Barbara Soto *et al.* therefor.

M. HALL McALLISTER,
Judge Cir. Court U. S. Dist. Cal.

January 30th, 1860.

Endorsed: Filed January 30, 1860.

W. H. CHEVERS, *Clerk.*

216 *Petition and objections to survey.*

United States district court, northern district of California.

THE UNITED STATES *vs.* BARBARA SOTO *et al.* } No. 300, U. S. dist. c't. No. 524, U. S. L. com.

The petitioners, Barbara Castro de Soto above named, widow of Francisco Soto, deceased, and also Vincente Soto, Jesus M'a Soto, Mariana Soto, Trinidad Soto, Encarnacion Soto de Rome and her husband Edward Rome, children and heirs of said Francisco Soto and with others, claimants of the rancho of San Lorenzo, heretofore granted by the Mexican government of California to said Francisco Soto, respectfully show unto the court that they object to the survey of said rancho and to the map or plat thereof heretofore returned to said court by J. W. Mandeville, esq., U. S. surveyor general for the State of California, and now on file in said cause. And as matter of objection they show that the same are not made in accordance with said grant thereof, nor with the decree of confirmation heretofore rendered in said cause, wherein said rancho is described as fol-
217 lows, viz: On the north by the creek of San Lorenzo; on the west by the Bay of San Francisco; on the south by the Arroyo del Alto, pertaining to Don Jesus Vallejo, and a straight line drawn from this creek to pass by the rodeo to the beach; on the east by Don Guillermo Castro, according to the line of division agreed on and settled by the governor of California on the seventeenth day of January, 1844, a copy whereof is contained in said transcript and endorsed in the original grant in this case. And the petitioners show that in and by said survey, and the map thereof returned as aforesaid, said rancho is made to be bounded on its southern side by a line different from said southern line thereof as given in said decree, and in the original grants of said rancho, to wit, by the line drawn on said map from the post marked S. L. No. 11, to post marked J. V. No. 3, thereby excluding from said rancho, as the petitioners are informed and believe, more than 1,500 acres of land which justly belong thereto. And the petitioners further show that said survey and said map or plat thereof are also wrong in respect to a part of the
218 eastern boundary of said rancho, to wit: the line of said eastern boundary which appears upon said map as drawn from Post st. No. 2, to the point marked [tree] sycamore tree, S. L. No. 3, No. 80,

¼ E., 5.85 ch. from corner; and the petitioners show that the line on said part of said boundary should be run as the same is laid down in the testimony of H. A. Higley, beginning on page 35 of the transcript from the U. S. land commission on file in said cause, to wit, beginning on the saujon or ditch, on bank of which stands the dwelling-house of the petitioners at a point where the produced line of the front of Guillermo Castro's house meets said ditch; thence at right angles to said produced line 600 varas towards the ancient public road in the plain; thence in a straight line to a point on the south bank of the San Lorenzo creek, marked on the map filed with and referred to in said Higley's said testimony as F. S. No. 12, which said point was agreed on as in said testimony is declared by all parties in interest, and was designated by a stake, marked as last afore-
219 said. And the petitioners show that said line so drawn on said map or plat from said post st. No. 2, includes in said rancho a portion of land belonging to the rancho of Guillermo Castro, not belonging to said rancho of San Lorenzo, formerly granted to said Francisco Soto, dec'd, amd petitioners refer to said testimony of H. A. Higley, beginning on said page 35 of said transcript, and to said map therein referred to and filed therewith. And also to the testimony of said Guillermo Castro, beginning on page 41 of said transcript. And the petioners pray that the court order said survey and map or plat so returned to be corrected as aforesaid, to wit, that said southern line of said rancho be made to conform to the original grant of said rancho to said Francisco Soto and to said decree of the court, and that said part of said eastern line of said rancho, wrongfully drawn as aforesaid, be so corrected and drawn as to accord with said testimony and map of said H. A. Higley.

ROBERT SIMSON.
Attorney of said Petitioners.

220 Endorsed: Filed February 4th, 1860.
W. H. CHEVERS, *Clerk.*

Monition.

UNITED STATES OF AMERICA,
Northern District of California, ss:

[SEAL.] The President of the United States of America to the marshal of the United States for the northern district of California, greeting:

Whereas objection has been made to the official survey and location of the land, finally confirmed, in case No. 300, to Barbara Soto *et al.*, known as "San Lorenzo," and situated in the county of Alameda, in said district.

Now, therefore, you are hereby commanded, in the name of the President of the United States of America, to give due notice to all parties having or claiming to have, an interest in such survey and location, that they be and appear before the district court of the United States for said district, sitting in land cases, on or before

221 Wednesday, the 10th day of October, A. D. 1860, at 11 o'clock, a. m., (if that day shall be a day of jurisdiction, and if not, on or before the next Wednesday thereafter,) then and there to intervene for the protection of such interest, or their defaults will be taken. And what you shall have done under this writ, do you then and there make return thereon.

Witness the Hon. Ogden Hoffman, judge of said court, at San Francisco, in said district, this 4th day of September, A. D. 1860.

W. H. CHEVERS, *Clerk.*

Endorsed: The within monition was received by me on Tuesday, the 4th day of September, 1860, and in obedience thereto I have given due notice as therein commanded, by causing the publication of said notice for four consecutive Wednesdays in the San Francisco Herald, commencing on the 5th day of September, 1860; and for four consecutive Saturdays, in the Alameda Gazette, a paper published nearest the land, commencing on the 8th day of September, 1860.

Dated San Francisco, Oct. 10, 1860.

222 P. L. SOLOMON, *U. S. Marshal.*

Returnable 10th Oct., 1860.
Issued Sept. 4, 1860.
Filed Oct. 10, 1860.

W. H. CHEVERS, *Clerk.*

Petition of C. W. Hathaway et al.

In the district court of the United States for the northern district of California.

BARBARA SOTO *et al.* *vs.* THE UNITED STATES. } No. 300.

Charles W. Hathaway, Hamilton W. Crabb, and Wm. Sherman, as adm'r of G. S. Steere, dec'd, respectfully shows to the court that they are part owners of the rancho San Lorenzo, claimed in the above case; that said claim has been finally confirmed, and duly surveyed by the surveyor general of the United States for the State of California; that your petitioners derive their title to a portion of the said

223 land by purchase from the widow of the original grantee, who, by his last will and testament, fully empowered and authorized her to make such sale; that said survey has been objected to by parties claiming an interest in said lands, and has been ordered into court for examination and adjudication, under the act of Congress approved June 14, 1860.

Your petitioners, therefore, pray leave to intervene in the said cause for the protection of their rights, under the provisions of the said act of Congress, in such case made and provided.

And your petitioners will ever pray, &c.

THORNTON, WILLIAMS & THORNTON,
Att'ys for Petitioner.

C. W. HATHAWAY.

Sworn to and subsribed by C. W. Hathaway before me, Oct. 8, 1860.

W. H. CHEVERS, *U. S. Com.*

Endorsed: Filed Oct. 8, 1860.

W. H. CHEVERS, *Clerk.*

224 *Intervention of Louis Brady.*

In the district court of the United States for the northern district of California.

BARBARA SOTO *et al.* *vs.* UNITED STATES. } No. 300.

The petition of Louis Brady respectfully shows to the court that he is a part owner of the rancho San Lorenzo, claimed in the case of Barbara Soto *et al. vs.* The United States, being No. 300; that said claim has been finally confirmed, and duly surveyed by the surveyor general of the United States for the State of California; that said survey has been objected to by parties claiming an adverse interest, as your petitioner is informed and believes, and the same has been ordered into this hon. court for examination and adjudication.

Your petitioner derived his interest in said land, being about twelve hundred acres at the present term, by purchase from the widow and devisee of the original grantee, who by his last will and testa-
225 ment fully empowered and authorized her to make such sale.

Your petitioner therefore prays leave to intervene for the protection of his rights in the said case of Barbara Soto *et al. vs.* the United States, under the provisions of the act of Congress approved June 14, 1860.

LEWIS BRADY.

Sworn to and subscribed before me Oct. 3, 1860.

W. H. CHEVERS, *U. S. Com.*

Endorsed : Filed October 8, 1860.

W. H. CHEVERS, *Clerk.*

Order on return of monition.

At a stated term of the district court, of the United States of America for the northern district of California, held at the court-room in the city of Francisco, on Wednesday the tenth day of October, in the year of our Lord one thousand eight hundred and sixty.

Present: the honorable Ogden Hoffman, district judge.

226 THE UNITED STATES *vs.* BARBARA SOTO *et al.* } In land cases, district court, No. 300.—Land com., No. 524.

And now, at this day, the United States marshal having made return upon the monition heretofore issued in this cause, that he had given due notice as therein commanded, on motion of attorney for

——— ———, proclamation was made that all parties having, or claiming to have, an interest in the survey and location of the land finally confirmed in the above-entitled cause, appear and intervene for the protection of such interest. The U. S. attorney and Andrew Glassell appeared for the U. S.; Rob't Simson appeared for the claimants; J. J. Williams appeared for Louis Brady, and for Hathaway *et al.*; no other parties appearing, whereupon it is ordered that the default of all parties not appearing as aforesaid be and the same is hereby entered.

Endorsed: Filed October 10, 1860.

W. H. CHEVERS, *Clerk.*

227 *Petition of Francisco Soto and affidavit.*

United States district court, northern district of California.

UNITED STATES
vs.
BARBARA SOTO and *als.* } No. 300.—San Lorenzo.

NORTHERN DISTRICT OF CALIFORNIA, *ss:*

Robert Simson, being duly sworn, deposes and says that he is informed and believes heretofore, to wit, previously to the year 1845, and during the lifetime of Francisco Soto, deceased, the rancho of San Lorenzo, situated in the present township of Eden, county of Alameda and State of California, was granted to Francisco Soto by duly constituted authorities of said California, to wit, by two grants thereof, one of which grants was duly made and executed to and in favor of said Soto by Juan B. Alvarado, governor of said California, and bears date the tenth day of October, A. D. 1842, and the other thereof by Manuel Micheltorena, also governor of California, and bears date the twentieth day of January, A. D. 1844.

That said grants, and the proceedings relating thereto, are
228 set forth in the record and documents on file in the clerk's office of said court in the above stated cause, and thereto reference is hereby made.

That said Soto died in the year 1845, and his said rancho descended to his children and heirs, certain of whom, hereinafter named, still retain their interest in said rancho, acquired by them by inheritance from their said father.

That the title to said rancho, acquired and inherited as aforesaid, has heretofore been confirmed by the proper tribunals of the United States, as appears by the records and papers filed in the above stated cause, and survey thereof has been made by the United States surveyor general for California, who has returned his plot of said survey to this court.

That deponent is the attorney of certain of said heirs, to wit, of Vicente Soto, Encarnacion Soto de Roome, and her husband, Edward Roome, Trinidad Soto, Mariano Soto, and Jesus Maria Soto, all of whom, save said Edward Roome, are children and heirs of said Soto; and deponent also is the attorney of said Francisco Soto's widow,
229 to wit, of Barbara Soto, who is now owner, by purchase, of

an undivided interest in said rancho, inherited from said Francisco Soto by Ana Maria Soto, another daughter of him and of said Barbara.

That all of said parties of whom this deponent is attorney, as aforesaid, are dissatisfied with said survey and plot thereof, and allege the same to be incorrect, and intend to present their grounds of objection to this court within the time assigned them for that purpose.

ROBERT SIMSON.

Sworn to and subscribed Oct. 10, 1860, before me.

W. H. CHEVERS,
U. S. Com.

Endorsed: Filed Oct. 10, 1860.

W. H. CHEVERS, *Clerk.*

Affidavit of Wm. C. Blackwood.

In the district court of the United States for the northern district of California.

THE UNITED STATES. *vs.* BARBARA SOTO *et al.* } No. 300.—For the rancho of San Lorenzo.

STATE OF CALIFORNIA,
County of Alameda, ss:

230 William C. Blackwood, being duly sworn, deposes and says: That he, this deponent, and Crayton Winton, George Fleming, senior, Joel Russell, John Castor, and John S. Finch, are the owners in fee simple of an interest in said rancho of San Lorenzo, derived as follows, viz:

On the 19th day of January, A. D. 1858, the said Joel Russell purchased the entire interest of Francisca, a daughter and one of the seven children and heirs-at-law of Francisco Soto, deceased, in and to said rancho, for the sum of $19,000, to her in hand paid, and on the same day the said Francisca and her husband, Gorgorio Guevara, conveyed by deed, duly executed and acknowledged, all her said interest in said ranch to said Joel Russel; and which interest so conveyed is claimed to be the one equal undivided seventh part of said ranch.

On the same 19th day of January, 1858, said Joel Russell, by deed, conveyed portions of his interest as follows, to wit: to Crayton Winton $\frac{6}{25}$ths thereof; to George Fleming, sr. $\frac{5}{25}$ths thereof; to Abraham W. Harris $\frac{4}{25}$ths thereof, and to William C. Blackwood $\frac{2}{25}$ths thereof; and that said Abra'm W. Harris subsequently, by deed, con-

231 veyed his said interest, $\frac{4}{25}$ths, to John Carter and John S. Finch; and that the interests of said parties are now claimed to be as follows, viz: Joel Russell $\frac{6}{25}$ths of $\frac{1}{7}$th of the whole ranch; Crayton Winton $\frac{6}{25}$ths of $\frac{1}{7}$th of the whole ranch; George Fleming, sr., $\frac{5}{25}$ths of $\frac{1}{7}$th of the whole ranch, and Wm. C. Blackwood $\frac{2}{25}$ths of $\frac{1}{7}$th of the whole ranch, and John Carter and John S. Finch $\frac{4}{25}$ths of $\frac{1}{7}$th of the whole ranch, all of whom now occupy portions of said ranch under their titles.

And deponent further says, that said Joel Russell, Crayton Winton, George Fleming, sr., John Carter, and John S. Finch, and this deponent, have retained and employed A. M. Crane, of said county of Alameda, attorney-at-law, to appear and represent and protect their interests in the settlement of the final survey herein.

WM. C. BLACKWOOD.

Subscribed and sworn to before me this 4th day of October, A. D. 1860.

ISAAC AMERMAN, [SEAL.]
Notary Public.

Endorsed : Filed Oct. 10, 1860.

W. H. CHEVERS, *Clerk.*

232

Objections of claimants to survey.

233 United States district court, northern district of California.

THE UNITED STATES *vs.* BARBARA SOTO *& als.* } No. 300, U. S. district court.—No. 524, U. S. L. C.

The petitioners, Barbara Castro de Soto, above named, widow of Francisco Soto, deceased, and also Vicente Soto, Jesus Ma. Soto, Mariano Soto, Trinidad Soto, Encarnacion Soto de Roome, and her husband, Edward Roome, children and heirs of said Francisco Soto, and, with others, claimants of the rancho of San Lorenzo, heretofore granted by the Mexican government of California to said Francisco Soto, respectfully show unto the court that they object to the survey of said ranch and to the map or plat thereof heretofore returned to said court by J. W. Manderville, esq'r, U. S. surveyor general for the State of California, and now on file in said cause; and as matter of objection they show that said survey and plat are not made in accordance with the said grant thereof, nor with the decree of confirmation heretofore rendered in said cause, wherein said ranch is described as follows, viz: Bounded on the north by the creek
234 of San Lorenzo; on the west by the bay of San Francisco; on the south by the Arroyo del Alto, pertaining to Don Jesus Vallejo, and a straight line drawn from this creek to pass by the rodeo to the beach; on the east by Don Guillermo Castro, according to the line of division agreed on and settled by the governor of California on the 17 day of January, 1844, a copy whereof is contained in said transcript and indorsed in the original grant in this cause. And the petitioners show that in and by said survey, and the map thereof, returned as aforesaid, said rancho is made to be bounded on its southern side by a line drawn, as set forth in said map, from the post marked S. L. No. 11 to post marked J. V. No. 3, instead of by the said line drawn from said creek called Arroyo del Alto, passing through said point called the rodeo unto the beach, whereby there is excluded from said rancho, as the petitioners are informed and believe, more than 1,500 acres of land which justly belong thereto.

And the petitioners further show that said survey and said
235 map or plat thereof are also wrong in respect to a part of the eastern boundary of said rancho, to wit: the line of said eastern boundary which appears upon said map as drawn from post St. No. 2 to the point marked [tree] sycamore tree, S. L. No. 3, N., 80¼ E. 5.85 chains from cor.; and the petitioners show that the line on said part of said boundary should be run as the same is laid down in the testimony of H. A. Higley, beginning on page 35 of the transcript from the U. S. land commission, on file in said cause, to wit: beginning on the saujon, or ditch, on the bank of which stands the dwelling-house of the petitioner, at a point where the produced line of the grant of Guillermo Castro's house meets said ditch; thence at right angles to said produced line 600 varas towards the ancient public road in the plain; thence in a straight line to a point on the south bank of the San Lorenzo creek, designated on the maps on file in this cause, with and referred to in said Higley's said testimony by the letters and figures F. S. No. 12, which said point was agreed on,
236 as in said testimony of said Higley is declared, by all parties in interest, and was marked by a stake bearing said letters and figures.

And the petitioners show that said line, so drawn on said map or plat from said post St. No. 2, includes in said rancho a portion of land belonging to the rancho of Guillermo Castro, not belonging to said rancho of San Lorenzo, formerly granted to said Francisco Soto, deceased; and petitioners refer to said testimony of H. A. Higley, beginning on said page of said transcript, and to said map therein referred to and filed therewith, and also to the testimony of said Guillermo Castro, beginning on page 41 of said transcript.

And the petitioners pray that the court order said survey and map or plat so returned to be corrected as aforesaid, to wit: that the said southern line of said rancho be made to conform to the original grant of said rancho to said Francisco Soto and to said decree of this court, and that said part of said eastern line of said ranch, wrongfully drawn as aforesaid, be so corrected and drawn as to accord
237 with said testimony and map of said H. A. Higley.

ROBERT SIMSON,
Attorney of Claimants.
A. M. CRANE,
Attorney for the intervenors, Joel Russell, Wm. C. Blackwood, Crayton Winton, George Fleming, sr., John Carter, and John S. Finck.

Endorsed: Filed Oct. 13, 1860.
W. H. CHEVERS, *Clerk.*

Objections to survey on the part of the U. S.

In the district court of the United States for the northern district of California.

THE UNITED STATES
v.
BARBARA SOTO *et al.* } No. 300.—For place called "San Lorenzo."

The United States, by their attorney, except to the plat and survey now on file in this court on the following grounds:

The said survey does not conform to the terms of the decree
238 confirming said land claim. The said survey does not conform to the limits of the grant herein confirmed, but wrongfully embraces a large body of public lands of the United States lying immediately south of the San Lorenzo creek, and bounded on two sides by said creek and the bay of San Francisco. The said survey should be corrected so as to excuse from its compass the lands last referred to, and made to conform to the limits expressed in the original grants confirmed in said cause.

CALHOUN BENHAM,
U. S. District Attorney.

Endorsed: Filed Nov. 9, 1860.

W. H. CHEVERS, *Clerk.*

Dep. of J. Y. Castro, on part of claimants.

In the district court of the United States for the northern district of California.

THE UNITED STATES
v.
BARBARA SOTO *et al.* } In land cases, dist. court, No. 300.—Land com., No. 524.

239 Be it remembered, that on this 30th day of July, A. D. 1861, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the district of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in courts of the United States pursuant to the acts of Congress in that behalf, personally appeared Joaquin Y. Castro, a witness produced in behalf of the claimants in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows, his evidence being interpreted by A. D. Splivalo, a sworn interpreter:

Present: R. Simson, esq., and A. M. Crane, esq., for claimants, and intervenors Russell *et al.*; Williams and Thornton, for intervenor Brady; and W. H. Sharp, esq., U. S. att'y, for the U. S.

Questions in behalf of the claimants.

Question 1st. What is your name, age, and place of resi-
240 dence?

Ans. My name is Joaquin Y. Castro; my age is fifty-two years, and I reside in San Pablo, Contra Costa county.

2. Did you know Francisco Soto during his lifetime; if so, is he now dead, and when did he die?

Ans. I knew him; he is dead; I think he died about the year 1845.

3. Where did Francisco Soto live during his lifetime—on what rancho?

Ans. On the ranch of San Lorenzo, between the ranchos of Guillermo Castro and and Jesus Vallejo.

4. Do you know the boundaries of the rancho San Lorenzo? If so, describe them.

Ans. I do know them: on the north it is bounded by Guillermo Castro; on the south by the line of Jesus Vallejo; on the west by the bay of San Francisco; on the northwest by Estudillo and the
241 San Lorenzo creek; on the east east, also, by Guillermo Castro.

5. Describe the line which divides the rancho San Lorenzo from that of Jesus Vallejo.

Ans. It is a creek flowing from up in the hills to the northeast. The creek is called Arroyo del Alto, and it runs to the southeast. Said creek is the boundary line till it comes to a place called the Derramadero. From that place a line is drawn across the old *rodeo* grounds of the mission to the bay.

6. How long have you known the said *rodeo?* By whom was that *rodeo* established? And state near whose house it is situated.

Ans. I have known it since the year 1841. It was established by the mission of San José when they had their cattle around there. I believe it is at present near the house of a certain Anderson.

7. When were you there last; with whom did you go; for
242 what purpose did you go, and what was done there at that time?

Ans. I was there last about two or three years ago. I went there with Guillermo Castro and some surveyors. I think Mr. Simson was there; also Galindo Amador, and other persons that I cannot remember. I went there to show them the old *rodeo* grounds and a stake which was there. They saw the place and became acquainted with the *rodeos.*

8. Whose rancho lies on the other side, to the south of the line which you describe as running from the Arroyo del Alto, through said *rodeo* to the shore of the bay?

Ans. The ranch of Jesus Vallejo.

9. Who were the surveyors that you mention?

Ans. They were government surveyors. The name of one of them was Thompson. I do not remember any of the others.

10. Describe the line which divides this rancho from that of Guillermo Castro, as mentioned in your answer to ques. 4.

243 Ans. It begins at a gully (saujon) to the north of the house

of Barbara Castro de Soto, widow of Francisco Soto; thence six hundred varas towards the road; thence a right line to the San Lorenzo creek, meeting the San Lorenzo creek; also, six hundred varas from the hills.

Cross-examination.—Questions by counsel for intervenors Russell et als.

Ques. 11. How did you come to know the boundary you have last described?

Ans. Because, during the years 1841, 1842, and 1843, I was in San José mission as administrador of said mission, and therefore was acquainted with the localities of said ranchos. Also, because at that time Francisco Soto and Guillermo Castro obtained their titles, and so I knew their boundaries.

12. Are you related to Guillermo Castro?

Ans. I am. We are first cousins, and second cousin of Barbara Castro de Soto.

244 13. Have you any interest in this land in controversy?

Ans. I have none whatever.

14. How long were you administrador of the mission of San José?

Ans. I was administrador during the latter part of 1841, the whole of 1842, and a part of 1843.

15. What was the business of such administrador?

Ans. It was to take care of the persons under my charge, and of the establishment at large, having power to sell, buy, and mortgage, and dispose in any other way the interest of said establishment; also, to receive and execute the different orders from the government to me.

16. How early did you become acquainted with this line between Castro and Soto?

About the year 1843 or 1844.

17. Was that line run on the ground as early as 1843 or 1844?

245 Ans. I do not know whether it was run or not at that time, but I know that the government had granted to Castro those six hundred varas which had divided him from Soto.

18. Do you mean to say that the governor granted to Castro the six hundred varas, as you have described it?

Ans. I do, and by Governor Micheltorena.

19. Where and how did you ascertain that fact?

Ans. It must have been either in 1843 or 1844, while I was at the mission of San José, or on my ranch San Pablo; but I do not remember well. I learned it from the *colindantes* themselves, to wit, Francisco Soto, Carlos Castro my uncle, and father of Guillermo Castro, and Guillermo Castro himself.

20. Did you ever read the papers in this case?

Ans. No, I never have. I never read his title papers.

246 21. Is Carlos Castro alive now?

Ans. No, he is dead.

22. Was anybody present when Francisco Soto told you about the line you have spoken of?

Ans. Perhaps somebody of his family or of mine; I don't remember,

because I used to go very often to his house, and in the same way he would come to mine.

23. Where was he when he told you about this line?

Ans. I don't remember whether he was in his house or whether it was in mine; once when he came to a *rodeo* to get some cattle, which I delivered to him for another person.

24. When did Carlos Castro die?

Ans. I think in April of 1848.

25. How long after the death of Castro before you heard there was any difficulty about this line?

247 Ans. I don't remember.

Questions by counsel for the U. S.

Ques. 26. In answer to ques. 4 you state the boundary on the northwest of the rancho claimed in this case to be Estudillo and the San Lorenzo creek, and on the east and north by Guillermo Castro; state at what point on the San Lorenzo creek is the line dividing Estudillo from Guillermo Castro, as you knew those ranchos before the American possession?

Ans. The dividing line does not come to the arroya San Lorenzo; said line begins at a spring near the house of an Indian named Sylvestre; thence it ran to the point of a *sausal*, where it touches the arroyo San Lorenzo; thence up to the hills *colindando*, with Estudillo and Peralta on the north.

Direct examination resumed.—Questions by counsel for claimant.

Ques. 27. How far is that *sausal* (willow grove) you speak
248 of from the San Lorenzo creek.

Ans. The southern end of the sausal touches the arroyo; it is about one thousand varas, perhaps more, from the hills.

28. How far westward in the plain from the foot of the hills, or from the front of Guillermo Castro's house, did the ancient high road run?

Ans. About one thousand varas, more or less, from the house of Guillermo Castro.

29. Where did it cross the San Lorenzo creek going northerly?

Ans. About six or seven hundred varas, more or less, from the point of the sausal up the creek.

JOAQUIM T. CASTRO.

Sworn to and subscribed July 30th, 1861, before me.

W. H. CHEVERS,
U. S. Comm'r.

Endorsed: Filed August 15, 1861.

W. H. CHEVERS, *Clerk.*

Dep. of Antonio Peralta on part of claimants.

249 In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* BARBARA SOTO *et al.* } In land cases.—Dist. court No. 300.—Land com. No. 524.

Be it remembered, that on this 30th day of July, A. D. 1861, at the city of San Francisco, in the district aforesaid, before me, Wm. A. Chevers, a commissioner duly appointed by the circuit court of the United States for the district of California, to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared Antonio Peralta, a witness produced in behalf of the claimants in the above-entitled cause, now pending in said court under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows, his evidence being interpreted by A. D. Splivalo, a sworn interpreter.

Present: R. Simpson, esq., and A. M. Crane, esq., for
250 claimants and intervenors, Russell et als.; Williams and Thornton for intervenor Brady, and W. H. Sharp, U. S. att'y, for the U. S.

Questions in behalf of the claimants.

Question 1st. What is your name, age, and place of residence?

Answer. My name is Antonio Peralta; my age is 58 years; and I in San Antonio.

2. Did you know Francisco Soto during his lifetime, and do you know Guillermo Castro, and do you know Barbara Castro de Soto, widow of Francisco Soto?

Ans. I knew Francisco Soto, and I know the others.

3. Do you know the two ranchos called respectively San Lorenzo?

Ans. I do.

4. To whom did they or do they belong?

Ans. From the hills to the bay belong to Barbara Castro de Soto, and from the foot of the hills inwards belongs to Guillermo Castro.

251 5. Do you know the boundary line between said ranchos? If so, describe the same.

Ans. I do know it—the fact of the hills in some places; and in other places the line goes further out towards the bay, opposite to the house of Guillermo Castro, about six hundred varas from the foot of the hills.

6. Do you know the Arroyo del Alto?

Ans. I do.

7. Do you know the gully called the Saujon, which runs past the house of said widow from the hills into the plain?

Ans. I do.

8. From said Arroyo del Alto to said Saujon how does said boundary line run?

Ans. By the foot of the hills.

9. How does the said line between said two ranchos run north from said Saujon to the San Lorenzo creek?

252 Ans. It runs, as I have told you, (meaning the interpreter,) all along the foot of the hills, excepting a part where the line advances further towards the bay, as I have laid it down on this piece of paper. (Here witness points to a piece of paper, and explains as follows.) It begins at a point six hundred varas distant from and west of the foot of the hills, by the Saujon; thence the line runs north to a point on the San Lorenzo creek, six hundred varas distant from the foot of the hills. This is the portion of the line which I said advanced further towards the bay.

10. How did you learn the position of this dividing line which you describe?

Ans. By Francisco Soto, deceased; from no one else.

Cross-examination.—Questions by counsel for intervenor Brady.

Ques. 11. When and where did Francisco Soto tell you of this line?

253 Ans. I do not remember when; it must have been on some place on his ranch.

12. How long was the west line you have spoken of from the Saujon to the San Lorenzo creek?

Ans. I do not know; perhaps three thousand varas, more or less.

13. Who was present when Francisco de Soto described this line to you?

Ans. I do not remember, as it was many years ago.

14. Was any one present?

Ans. Miguel Mesa was present; he is now dead.

15. When did Mesa die?

Ans. He died in 1849.

Questions by counsel for the U. S.

Ques. 16. I understand you to describe the line of Guillermo Castro from the Arroyo Alto to the San Lorenzo, and the San

254 Lorenzo to the San Leandro creek, as running along the hills, except at the place near Castro's house, where it extended six hundred varas into the plain; am I correct?

Ans. I have said nothing about the San Leandro creek; I have said that the boundary line runs from the Arroyo Alto, along the foot of the hills to the Saujon; thence six hundred varas from the foot of the hills into the plain; thence to a point on the San Lorenzo creek, six hundred varas distant from the foot of the hills.

17. From this last mentioned point, how does the line run?

Ans. That is as far up as I know.

18. Then you mean to say that Castro's rancho stops at that point on the San Lorenzo which you have named?

Ans. I don't know where it ends.

ANTO. MA. PERALTA.

Sworn to and subscribed this 10th July, A. D. 1861, before me.

W. H. CHEVERS,
U. S. Comm'r.

255 Endorsed: Filed August 15, 1861.

W. H. CHEVERS, *Clerk.*

Dep. of José Romero on part of claimants.

In the district court of the United States for the northern district of California.

THE UNITED STATES *vs.* BARBARA SOTO *et al.* } In land cases.—Dist. court No. 300.—Land com. No. 524.

Be it remembered, that on this 30th day of July, A. D. 1861, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared José Romero, a witness produced in behalf of the claimants in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the
256 State of California, who being duly sworn, testified as follows, his evidence being interpreted by A. D. Splivalo, a sworn interpreter.

Present: R. Simson and A. M. Crane for claimants and intervenors, Russell et al.; Williams and Thornton for intervenor Brady, and W. H. Sharp, U. S. att'y, for the U. S.

Questions in behalf of the claimant.

Question 1st. What is your name, age, and place of residence?

Ans. My name is José Romero, my age is 61 years, and I reside on the rancho Agua Caliente, Alameda county.

2. Did you know Francisco Soto during his lifetime? If you did, state when he died.

Ans. I did; I do not remember when he died.

3. Do you know Don Guillermo Castro?

Ans. I do.

257 4. Do you know the two ranchos of San Lorenzo, belonging respectively to those two men?

Ans. I do.

5. Do you know the boundaries of the rancho San Lorenzo, which was the property of Francisco Soto during his lifetime? If so, state them.

Ans. I know them; they are the Arroyo Alto, right to the bay on the south; the Arroyo San Lorenzo on the north; on the east the foot of the hills; on the west the shore of the bay.

6. Do you know the point in the plain called the rodeo, near to the Arroyo del Alto?

Ans. I do.

7. How does that southern line run as regards that rodeo?

Ans. I don't know exactly.

8. Do you know the gully called the Saujon which runs past the house of Barbara Soto, from the hills out into the plain?

258 Ans. I do.

9. How does the dividing line between those two ranchos from the Arroyo del Alto to said Saujon run?

(Objected to by counsel for the U. S., because the witness has already stated that the eastern boundary of the Soto ranch was the foot of the hills.)

Ans. Along the foot of the hills.

10. From the Saujon northwards to the San Lorenzo creek, describe the line of division between the said two ranches.

(Same objection as the last.)

Ans. It runs from the Saujon six hundred varas out in the plain; thence to a point on the San Lorenzo creek, six hundred varas distant from the foot of the hills.

11. At what point on the Saujon does the measurement of the six hundred varas begin?

259 Ans. There was at the point where the measurement was begun a large sycamore, at the mouth of the cañada. I don't know whether that tree now exists.

12. What were your means of knowing how said dividing line was run; from whom did you ascertain about it?

Ans. I was living on that ranch of Guillermo Castro, and I could see it with my own eyes.

13. Have you ever ascertained about the said dividing line from Guillermo Castro, or from Francisco Soto?

Ans. From both of them.

14. Where was the old public road in the plain, and how far from the foot of the hills did it run, between the Arroyo del Alto and the Arroyo San Lorenzo?

Ans. About two thousand varas, more or less.

Cross-examination.—Questions by counsel for intervenor Brady.

260 Ques. 15. When did you live on the rancho of Castro?

Ans. From 1840 till 1844.

16. What was your employment while living there?

Ans. I had my house standing there, keeping him company.

17. Were you in Castro's employment?

Ans. I was.

18. What did you do for him besides keeping him company?

Ans. I worked there, performing what little tasks I had to do; I also went hunting in the mountains.

19. How long is that western line in the plain from the Saujon to the arroyo San Lorenzo?

Ans. About three thousand varas, more or less.

20. Were do you live now, and what is your occupation?

261 Ans. I have said on the Agua Caliente. I am a farmer.

21. Does the sycamore tree still stand on the Saujon?

Ans. I think it is there; if not, the stump must be.

JOSÉ $\overset{\text{his}}{+}$ ROMERO.
mark.

Sworn to and subscribed this 30th day of July, A. D. 1861, before me.
W. H. CHEVERS, *U. S. Com.*

Endorsed: Filed August 15, 1861.
W. H. CHEVERS, *Clerk.*

Dep. of H. C. Smith, on part of the U. S.

In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* BARBARA SOTO *et al.* } In land cases.—Dist. court No. 300.—Land com. No. 524.

Be it remembered, that on this 10th day of July, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me,

262 Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared Henry C. Smith, a witness produced in behalf of the United States in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows:

Present: W. H. Sharp, esq., U. S. attorney; Jno. J. Williams, esq., for intervenors Hathaway and Brady, and R. Simson, esq., for claimants.

Questions in behalf of the United States.

Question 1st. State your name, age, residence and occupation.

Ans. Henry C. Smith; age 36; residence Nevada Territory; occupation, miner.

2d. When did you first arrive in Cal'a, and how long have you lived in this State?

263 Ans. I came to California in 1845, and have resided in this State ever since, up to about one year ago.

3d. Are you acquainted with the San Lorenzo rancho claimed in this case; and if so, when did you first know it?

Ans. I am; and first knew it in 1846, a year after my arrival in California.

4th. Did you ever have any business transactions with the claim-

ants of said rancho in 1846, 1847, or about that time? And if so, state what.

Ans. Not at that time. I had a business transaction with the Castros in 1846. I had no business transactions with the Sotos at that time.

5th. Did you have at that time any transaction with any parties to furnish lumber, to be used on the San Lorenzo rancho? If so, state particularly the transaction.

(Objected to as irrelevant.)

Ans. None that I know of.

264 6th. Do you know James T. Stratton, surveyor? And if so, have you lately pointed out to him, on the ground, the site of a corral?

(Objected to as irrelevant.)

Ans. I know Mr. Stratton. I pointed out to him, on Saturday last, the site of a corral on Castro's rancho.

7th. Do you know when that corral was built, for whom, and who furnished the timber?

(Objected to as irrelevant, pertaining to no issue in this case between the U. S. and the claimants or intervenors.)

Ans. I don't know in what year the original corral was built, but in 1846 a man named Patterson, that I was at work with and living with, furnished lumber rails for the Soto ranch; whether it was for building the corral or repairing it, I don't know. There were two corrals, one in the hills, which was pointed out by me on Saturday, and the other near the Soto house. I don't know for which one these rails were furnished.

265 8th. Did the Sotos use both these corrals?

Ans. They did in 1848; particularly the one in the hills, when I first had knowledge of it, which was in that year, 1848. The lumber was furnished in 1846.

H. C. SMITH.

Examination closed; cross-examination waived.

Sworn to and subscribed July 10th, 1862, before me.

W. H. CHEVERS,
U. S. Com.

Endorsed: Filed July 10th, 1862.

W. H. CHEVERS, *Clerk.*

Dep. of Jas. T. Stratton, on part of the U. S.

In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* BARBARA SOTO *et al.* } In land cases, dist. court, No. 300.—Land com., No. 524.

Be it remembered, that on this 22d day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before

266 me, Wm. H. Chevers, a commissioner duly appointed by the

circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States pursuant to the acts of Congress in that behalf, personally appeared James T. Stratton, a witness produced in behalf of the United States in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows, his evidence being taken by consent:

Present: W. H. Sharp, esq., U. S. att'y, for the U. S.; and Rob't Simson, esq., for claimant; and J. J. Williams, esq., for intervenors Brady and Hathaway.

Questions in behalf of the United States.

Question 1st. What is your name, age, place of residence, and occupation?

Ans. My name is James T. Stratton; my age is 32 years; I
267 reside in Alameda; my profession is that of a surveyor, which profession I have followed for the last fifteen years, twelve of them in California.

2. Look at the paper now shown you, to be annexed to your deposition, and marked Exhibit Stratton No. 1. State what it represents, and by whom made.

Ans. It is a topographical map of the district of country in Alameda county, lying between the arroyo de San Lorenzo and the arroyo Alto, made by myself in May, 1862. The survey was commenced May 23d, 1862, and completed on about the 5th of July following. The pink lines representing the official location of the rancho of San Lorenzo, confirmed to Barbara Soto *et al.*, and the green line, marked "rodeo line," being the old rodeo line between the rancho arroyo del Alameda and the said rancho of San Lorenzo, as pointed out to me by Joaquin Y. Castro June 1st, 1862. The dotted square, marked "old corral," was pointed out to me by Henry Smith, July 5th, 1862, as being the location of the old "corral" used by the Sotos at the time he knew it, before 1850.

268 3. State approximately the quantity of land contained between the east line of the official survey of the Soto ranch, the San Lorenzo creek from where it is intersected by the said line to its headwaters, as shown on the said exhibit, and from the headwaters of the San Lorenzo to the headwaters of the arroyo Alto.

(Objected to as irrelevant.)

Ans. About five thousand five hundred acres.

4. On the plat of your survey the waters of the arroyo Alto appear to sink at the place where a road is represented as crossing. Please show on said exhibit the course of the said arroyo Alto, if continued.

Ans. I have marked on said exhibit, in blue, the course which the waters of the arroyo Alto would follow if allowed to flow naturally, and without interruption by any artificial means, there being

quite a prominent ridge in the plain to the westward of said blue line, following about on the line of what I have marked with
269 a dotted red line, which confines the waters of the arroyo del Alto to its easterly base.

5. What is intended to be represented by the parallel dotted lines which cross the San Lorenzo creek, between the places marked "W. Meeks" and "I. Lewellyn," and running southeasterly, crossing the arroyo Alto at the place where it sinks, as you have stated?

Ans. It was the old camino real, as pointed out to me by Joaquin T. Castro June 1st, 1862.

6. How did you ascertain the line shown on your map, which seems to separate the tide marsh from the good land?

Ans. From actual survey on the ground.

7. State the quantity of land contained between the south line of the official survey of the rancho of San Lorenzo, confirmed to Soto, the line marked "rodeo line," and the line of separation between the marsh and good land.

Ans. About twenty-four hundred acres.

[So much of the above deposition as is hearsay is objected to
270 as evidence in the case.]

Cross-examination.—Questions by counsel for claimant.

Ques. 8. Did Joaquin Y. Castro trace out upon the ground the whole of the camino real, as shown upon the said exhibit? Explain how you ascertained its course.

Ans. He did not trace it out to me upon the ground, but only pointed out from the sink of the arroyo del Alto its location at different points.

9. State whether you have been deputy county surveyor of Alameda county; if yea, during what period?

Ans. I was deputy county surveyor from 1853 to 1859, continuously; after which I was county surveyor.

10. Look upon the map now shown you, on file in this case, marked "R. T. No. 2," annexed to the deposition of H. A. Higley. State what office the said Higley held in January, 1854, the date of said map, and whether you were his deputy at that time.

271 Ans. Mr. Higley was county surveyor of Alameda county at that time, and I was at that time his deputy, but had nothing to do with that survey.

11. Have you been, as deputy county surveyor and county surveyor of said county, familiar with the eastern line of said rancho, as depicted on said map last mentioned, beginning at the point marked "F. S. No. 1," to the San Lorenzo creek at the point marked "F. S. No. 12?"

Ans. I have been.

12. Look at the translation of part of the original papers in this case, upon page 115 of the transcript herein, beginning with the words, "The day, 17th January, 1844," and signed "Manuel Micheltorena," and describe how you, as an expert, being called upon to

run the line therein described as being "the limits of the tract of Don Guillermo Castro," would run the same.

(Objected to, because the witness is not competent to con-
172 strue the said order, that being a question for the court, and because the proof cannot be made by any expert, and also because it is new matter, and not matter called for in the direct examination.)

Ans. I would locate it substantially as shown upon Mr. Higley's map, Exhibit R. T. No. 2.

13. Do you know, of your own knowledge, anything about the old corral mentioned in your examination in chief, as to whose it was, to what uses applied, or aught else about it?

Ans. I know nothing more about than what Henry Smith told me.

Deposition closed.

JAS. T. STRATTON.

Sworn to and subscribed this 22d September, 1862, before me.

W. H. CHEVERS,
U. S. Com'r.

Endorsed: Filed Sept. 22d, 1862.

W. H. CHEVERS, *Clerk.*

(Here follows map, p. 272.)

273 *Dep. of J. Y. Castro, on part of the U. S.*

In the district court of the United States for the northern district of California.

THE UNITED STATES *vs.* BARBARA SOTO. } In land cases, dist. court, No. 300.—Land com., No. 524.

Be it remembered, that on this 30th day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States pursuant to the acts of Congress in that behalf, personally appeared Joaquin Y. Castro, a witness produced in behalf of the United States in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows, his evidence being interpreted by Rob't Simson, by consent.

Present: W. H. Sharp, U. S. att'y, for the U. S.; R. Simson, esq., for claimant, and J. J. Williams, esq., for Int. Hathaway *et al.*

274 *Questions in behalf of the United States.*

Question 1st. What is your name, age, and place of residence?

Ans. My name is Joaquin Y. Castro; my age is 53 years; I reside in the town of San Pablo, Contra Costra Co.

2. How long have you known the land known as the San Lorenzo rancho, claimed by Barbara Soto?

Ans. I have known it as a rancho since 1842.

3. Do you know the old rodeo line, between the rancho arroyo del Alameda, granted to José de Jesus Vallejo, and the rancho of San Lorenzo, granted to Soto; and if so, did you point out that line to James T. Stratton, surveyor on the ground, on or about the first of June last?

Ans. I know that line, and I did so point it out.

4. Were you ever administrador of the mission of San José? If so, in what years?

275 Ans. I was such administrador during the latter part of 1841, all of 1842, and the early part of 1843.

5. Did you, while you were such administrador, have charge of any stock belonging to the mission, which were kept upon the lands afterwards claimed by the Sotos.

Ans. Previously to those years the cattle of the mission were pastured upon the lands afterwards granted to Soto, but when I became administrador I collected the cattle of the mission together, and put them in another place, because they were getting lost and stolen in these lands of Soto. They were stolen by certain Indians who lived upon and near the San Lorenzo creek, and about where the Indian Sylvestre lived; also by Spaniards.

6. At that time was there a corral owned by the mission in that vicinity, or in the vicinity of the rodeo line? If so, state where it was located on the ground.

Ans. There was an old corral which had belonged to the mission, and was situated about three hundred yards, more or less,

276 to the southward of the old house of Francisco Soto.

7. On which side of the camino real was that corral situated?

Ans. To the eastward of it, less than a thousand varas.

8. Look at the map marked Exhibit Stratton No. 1, and state how far the old house of Soto was situated from the house marked "Barbara Soto" on said map.

Ans. The two houses are about three hundred varas apart; the new house lies to the north of the old house.

9. Do you recollect in what year Soto's first house was built?

Ans. I don't recollect exactly, but I think that it was in 1842. There was a little house there as early as that, built of adobes and brush.

10. Do you recollect in what year De Soto petitioned for the rancho San Lorenzo?

Ans. I do not.

277 *Cross-examination.—Questions by counsel for claimant.*

Ques. 11. Did you point out to Mr. Stratton, the surveyor, the position and course of the ancient public road, or camino real, which passed from the San Lorenzo creek southerly towards the arroyo del Alto?

Ans. I did.

12. At what points on said road did you do so?

Ans. I showed him the same, he and I both being at the arroyo del Alto; at no other place.

13. At what distance to the westward of the foot of the hills did the said camino real pass or run in the plain to the westward of the house of Francisco Soto?

Ans. The said camino real passed along in the plain to the westward of the house of Soto, being distant from the foot of the hills about 1,400 or 1,500 varas.

14. Is the said camino real properly laid down upon the
278 map marked Exhibit Stratton No. 1?

Ans. It is not properly laid down upon that map. I perceive that it is made to cut the line of 600 varas of Guillermo Castro. It did not cut the said 600 varas, but ran much below the same in the plain. It ran nearly in a straight line between the two arroyos.

15. Unto what year was the old corral of which you have testified used by the authorities of the mission of San José?

Ans. It was used up to the year 1840 by the mission. It was not so used after the concession to Soto.

Deposition closed.

JOAQUIN Y. CASTRO.

Subscribed and sworn to this 30th day of Sept., A. D. 1862, before me.

W. H. CHEVERS,
U. S. Com.

Endorsed: Filed Sept. 30, 1862.

W. H. CHEVERS, *Clerk.*

279 *Dep. of R. C. Hopkins, on part of the U. S.*

In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* BARBARA SOTO. } In land cases, dist. court, No. 300.—Land com., No. 524.

Be it remembered, that on this 30th day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States pursuant to the acts of Congress in that behalf, personally appeared R. C. Hopkins, a witness produced on behalf of the United States in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows:

Present: W. H. Sharp, U. S. att'y, for the U. S.; R. Simson, esq., for claimant, and J. J. Williams, esq., for Int. Hathaway *et al.*

161

Questions in behalf of the United States.

280 Question 1st. What is your name, age, place of residence, and occupation?

Ans. My name is R. C. Hopkins; I am of lawful age; I reside in San Francisco; my occupation is that of keeper of the Spanish archives in the office of the U. S. surveyor general for California, which office I have held for the last seven years.

2. State if you have produced the espediente in this case, No. 299, and of what papers it consists.

Ans. I have produced the expediente as found in the archives. It consists of a memorandum in the handwriting of Governor Alvarado and the borrador of a grant.

(Question and answer objected to on the ground of their irrelevancy to the matter now in issue in this case.)

3. Examine the borrador of the grant, found in the archives, as you have stated, and state whether any reference is therein made to a diseño of the land granted.

(Same objection as last.)

281 Ans. There is none.

4. Are there any other papers in the archives, to your knowledge, relating to the rancho San Lorenzo, granted to Soto, such as a petition by Soto, or diseño of the land solicited, etc.?

(Same objection as last.)

Ans. I know of none.

5. Examine Exhibit "A. P.," annexed to the deposition of Antonio Maria Pico, filed June 12th, 1854, being the petition of Francisco Soto, asking for juridical possession of the land granted to him, and state if you know in whose handwriting said petition is.

(Same objection as the last.)

Ans. I think it is in the handwriting of one José Garcia, who was a clerk for Antonio Maria Pico about the time of the date of the petition.

6. Now look at the document marked Exhibit A, annexed to the deposition of Chas. B. Strode, filed March 19th, 1857, and

282 state whether, in your opinion, said Exhibit A is in the handwriting of said Garcia; and if not, state in whose handwriting it is, if you know.

(Same objection as the last.)

Ans. It bears a strong resemblance to the handwriting of Garcia, as shown in the petition referred to. It still, however, differs in some points; it is much stiffer than the writing in the petition. I cannot say, however, whether it is or is not in the same handwriting.

7. Examine the petition of Francisco Soto to Governor Micheltorena for the extension to which is attached the informe of Jimeno, and the concession by Micheltorena, and state whether there is in said documents any reference to a diseño of the lands solicited.

(Same objection as last, and also that the documents speak for themselves.)

Ans. There is none.
Cross-examination waived.
Deposition closed.

R. C. HOPKINS.

283 Subscribed and sworn to this 30th day of September, A. D. 1862, before me.

W. H. CHEVERS,
U. S. Com.

Endorsed: Filed Sept. 30, 1862.

W. H. CHEVERS, *Clerk.*

Dep. of José de J. Martinez, on part of the U. S.

In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* BARBARA SOTO. } In land cases, dist. court, No. 300.—Land com., No. 524.

Be it remembered, that on this first day of October, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States pursuant to the acts of Congress in that behalf, personally ap-
284 peared José de Jesus Martinez, a witness produced in behalf of the United States in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows, his evidence being interpreted by Robert Simson, by consent.

Present: W. H. Sharp, U. S. att'y, for the U. S.; R. Simson, esq., for claimant, and J. J. Williams, esq., for Int. Hathaway *et al.*

Questions in behalf of the United States.

Question 1st. What is your name, age, and place of residence?

Ans. My name is José de Jesus Martinez; my age is 47 years; I reside in the county of Contra Costa.

2. How long have you lived in what is now known as Contra Costa county?

Ans. About thirty two years.

3. Do you know the ranchos arroyo del Alameda, granted to José de Jesus Vallejo; the San Lorenzo, granted to Francisco Soto; and the San Lorenzo, granted to Guillermo Castro? If so, for what
285 length of time?

Ans. I know them, and have known them since the first houses were put upon them.

4. What was the dividing line between José de Jesus Vallejo and Francisco Soto at the time these ranchos were founded?

(Objected to on the ground that the boundaries of the ranchos in question are to be determined by the written documents of concession thereof.)

Ans. The boundary line was a sanjon which ran from the hills down to the plain, and called the arroyo del Alto. The land to the north of this arroyo was the land of Francisco Sanchez; that to the south was the land of José de Jesus Vallejo.

5. When Soto petitioned for his grant, was there a corral, belonging to the mission, situated on the land solicited for by Soto? If so, state its location, if you know.

Ans. There was. It was situated to the northward of the pres-
286 ent house of the Soto family, and between that house and the house of Guillermo Castro, and between the hills and the camino real.

6. Did Francisco Soto or his family build a corral for their own use? If so, state where that was situated.

Ans. When they built their house there, Soto took the wood which had formed the old mission corral, and built another one nearer to their house.

7. Did the family have any other corral besides the one you have mentioned? If so, point out its location on the map marked Exhibit Stratton No. 1.

Ans. Yes; they had a little corral formed of boughs of trees where they kept some milk cows. It was within the hills to the east of the plain, on the arroyo del Alto. After passing over the first ridge you come to the corral in a hollow. It was a small corral built by some Sonorians.

Cross-examination.—Questions by counsel for claimant.

287 Ques. 8. Do you know the boundaries of the Soto rancho? If so, describe those boundaries as granted to Soto.

Ans. I do. In about the year 1843 or 1844 I happened to be passing by the road or camino real, and I saw, at the crossing of the San Lorenzo creek, where that road crossed it, Soto, Guillermo Castro, and a number of other persons. They were discussing the question of the boundary lines of the rancho of Soto and of his colindantes. I had known the lines of the rancho before this occasion, but on this occasion I became better acquainted with them. The boundary lines of the said rancho were as follows: On the north by the arroyo of San Lorenzo; on the east by the lands of Guillermo Castro; on the south by the arroyo del Alto, and from the sink or derramadero of this arroyo, by a straight line which passed thence through the rodeo to the shore of the bay of San Francisco; and on the west by the bay of San Francisco.

Direct examination resumed.—Questions by counsel for United States.

288 Ques. 9. From whom or in what manner did you ascertain these to be the boundaries?

Ans. I knew these boundaries previously to the occasion that I mention as a matter of general notoriety; and on the said occasion I ascertained said boundaries from the colindantes themselves, particularly Soto and Guillermo Castro, who were arguing as to where the dividing line between them ought to be run—Castro wishing the line to be run far out in the plain, and Soto wishing it to be run nearer to the hills.

Deposition closed.

JOSÉ DE J. MARTINEZ.

Subscribed and sworn to this 1st day of October, A. D. 1862, before me.

W. H. CHEVERS,
U. S. Com.

Endorsed: Filed Oct. 1st, 1862.

W. H. CHEVERS, *Clerk.*

289 *Certified copy of agreement fixing boundary between Castro and Soto et al.*

United States district court, northern district of California.

THE UNITED STATES } *vs.* } Land case No. 29.
GUILLERMO CASTRO. }

Whereas a dispute and disagreement has heretofore existed, and now exists, between said Guillermo Castro, claimant in said case of the rancho of San Lorenzo, and Barbara Soto and others, claimants in the case designated on the docket of land cases of said court as No. 300 of the rancho also called San Lorenzo, and coterminous with said first-mentioned ranchos, respecting the location and course of the dividing line between said ranchos: Now, therefore, it is hereby stipulated and agreed, by and between the said claimants, respectively, that the said dividing line between said ranchos shall be run, and is hereby established as the agreed and practically located line as follows, to wit: beginning at the point marked "Post S. L. No. 6" on the map of official survey of said rancho, claimed herein by said Guillermo Castro, which map is now on file in this case, and
290 running northwesterly along the line of course No. 9 of said survey, to the point of intersection of said line of course No. 9, with the middle line of the county road, which leads from the town of San Leandro directly to Hayward's; thence running along said middle line of said road northwestwardly, to a point in the middle line of a dry ditch which crosses said road a few rods northward from the northern line of lands of William Hayward, and runs from the plain eastward or northeastward to the San Lorenzo creek; thence running along the middle line of said ditch, eastward or northeastward, to the said San Lorenzo creek. And that in all other respects the said dividing line shall be and remain as the same is represented upon said map thereof, on file in this case as aforesaid, and also upon the

map of official survey on file in said case No. 300. And that whatever be the decision of this court in the premises, the dividing line between said ranchos shall be and remain as above described.
291 And that a copy of this stipulation, or a stipulation of like effect, with this stipulation, be filed in said case No. 300.

In witness whereof, we have hereunto set our hands and seals this the 24th day of September, A. D. 1861.

GUILLERMO CASTRO. [SEAL.]
LEWIS BRADY. [SEAL.]
C. W. HATHAWAY. [SEAL.]
H. W. CRABB. [SEAL.]
BARBARA CASTRO DE her + mark SOTO. [SEAL.]
ENCARNACION S. DE ROOME. [SEAL.]
EDW'D ROOME. [SEAL.]
TRINIDAD SOTO. [SEAL.]
VICENTE SOTO. [SEAL.]
JESUS M. SOTO. [SEAL.]
MARIANO SOTO. [SEAL.]
WM. C. BLACKWOOD. [SEAL.]
CRAYTON WINTON.
JOEL RUSSELL. [SEAL.]

STATE OF CALIFORNIA,
Alameda County, ss:

On this seventeenth day of July, A. D. 1862, personally appeared before me, Geo. Fleming, a notary public in and for said county, Barbara Castro de Soto, Encarnacion S. de Roome and her husband, Edward Roome, Trinidad Soto, Vicente Soto, Jesus M. Soto,
292 Mariano Soto, personally known to me to be the persons subscribed in and who executed the foregoing instrument as parties thereto, and who acknowledged to me that they, and each of them, executed the same freely and voluntarily, and for the uses and purposes therein mentioned. And the said Encarnacion S. de Roome, wife of said Edward Roome, having been by me first made acquainted with the contents of said instrument, acknowledged to me, on examination, apart from and without the hearing of her said husband, that she executed the same freely and voluntarily, without fear or compulsion or influence of her husband, and that she did not wish to retract the execution of the same.

On this eighteenth day of July, A. D. 1862, also personally appeared before me, Geo. Fleming, a notary public as aforesaid, William C. Blackwood and H. W. Crabb, personally known to me to be the individuals described in and who executed the annexed instrument as parties thereto, and ackowledged to me that they ex-
393 ecuted the same freely and voluntarially, and for the uses and purposes therein mentioned.

On the twenty-eighth day of July, 1862, before me, George Fleming, a notary public in and for said Alameda county, also appeared

Crayton Winton, within named, whose name is subscribed to the annexed instrument as a party thereto, personally known to me to be the individual described in and who executed the said instrument, and he acknowledged to me that he executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

On the thirteenth day of August, A. D. 1862, before me, Geo. Fleming, a notary public in and for said county, also appeared Joel Russell, within named, whose name is subscribed to the annexed instrument as a party thereto, personally known to me to be the individual described in and who executed the said instrument, and he acknowledged to me that he executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

[SEAL.] In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in these certificates
294 respectively above written.

GEO. FLEMING,
Notary Public.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

On this 19th day of August, A. D. 1862, before me, Charles F. Galan, a notary public in and for said city and county, duly commissioned and sworn, personally appeared the within named Guillermo Castro, whose name is subscribed to the annexed instrument as a party thereto, personally known to me to be the individual described in and who executed the foregoing instrument, and who acknowledged to me he executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

[SEAL.] In witness whereof, I have hereunto set my hand and affixed my seal of office this the day and year in this certificate first
295 above written.

CHARLES F. GALAN,
Notary Public.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

On this eighth day of October, A. D. one thousand eight hundred and sixty two, before me, Charles F. Galan, a notary public in and for said city and county, duly commissioned and sworn, personally appeared the within named C. W. Hathaway, whose name is subscribed to the annexed instrument as a party thereto, personally known to me to be the individual described in and who executed the said annexed instrument, and who acknowledged to me that he executed the same, freely and voluntarily, and for the uses and purposes therein mentioned.

[SEAL.] In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

CHARLES F. GALAN,
Notary Public.

296 Endorsed: Filed January 31st, 1863.
W. H. CHEVERS, *Clerk.*

I, W. H. Chevers, clerk of the district court of the United States for the northern district of California, do hereby certify that the foregoing is a true, full, and correct copy of the original agreement fixing boundary lines between Castro and Soto et al. in the case of the United States against Guillermo Castro, No. 29, now on file in my office.

In witness whereof, I have hereunto set my hand and affixed
[SEAL.] the seal of said court, this 31st day of January, A. D. 1863.

W. H. CHEVERS, *Clerk.*

United States district court, northern district of California.

THE UNITED STATES *vs.* BARBARA SOTO *and al.* } No. 300.

It is hereby stipulated and agreed that the foregoing certi-
297 fied copy of stipulation or agreement on file in case No. 29, The United States *vs.* Guillermo Castro, be filed in the above stated case No. 300, as evidence therein, and have the same force and effect which the original thereof would have if so filed in said case No. 300.

ROBERT SIMSON,
Attorney of Barbara Soto and of the heirs of Francisco Soto, dec'd.

Reserving all legal objections to the original contract or agreement not binding the U. S.

WM. H. SHARP, *U. S. Att'y.*

Endorsed: Filed March 5, 1863.

W. H. CHEVERS, *Clerk.*

Petition for the substitution of the name of "Trinidad" for "Margarita," &c.

U. S. District court, northern district of California.

THE UNITED STATES *vs.* BARBARA SOTO *et al.* } San Lorenzo.—No. 300.

To the district court of the United States for the northern district of California:

298 The petition of the undersigned, Trinidad Soto, daughter and one of the heirs-at-law of Francisco Soto, who died at the pueblo de San José, A. D. 1845, respectfully shows unto this honorable court, that her said father, at the time of his death, was the owner and seized of a certain rancho or tract of land situate in what is now the county of Alameda, in said northern district of California, known as the rancho of San Lorenzo, containing one and a half leagues or thereabouts, bounded on the north by the creek of San

Lorenzo, on the west by the bay of San Francisco, on the south by an ascertained line with the lands of Jesus Vallejo, and on the east by an ascertained line with the lands of Guillermo Castro. That her said father, at the time of his decease, held the title to said rancho by and under a grant from the Mexican government, and left him surviving, his widow, the mother of your petitioner, and seven children, his heirs-at-law, viz : Ana Maria, otherwise called Anita;
Francisca, Encarnacion, Vicente, Jesus Maria, Mariano, and
299 your petitioner, Trinidad. That in the year 1853 the mother of your petitioner, the said Barbara Soto, employed William Carey Jones, attorney-at-law, to present in her name and that of the said children of the said Francisco Soto, deceased, including your petitioner, the claim to said rancho before the board of U. S. land commissioners, for confirmation. That in pursuance of such retainer, the said Jones, in the name of Jones, Tompkins, and Strode, as attorneys, did, on the 22d day of January, 1853, as your petitioner has been informed and believes, present to said board a petition for the confirmation of said rancho, but in said petition, by a clerical error of said attorneys, the name of your petitioner is wholly omitted, the name Margarita being erroneously inserted therein instead of Trinidad, the name of your petitioner. And also the said Ana Maria is therein erroneously named Anita, which is the familiar name for Ana. That such proceedings were had in the matter of said petition before said board. That on the 24th of April, 1855, said land
was confirmed to Barbara Soto *et al.*, in trust for the heirs of
300 Francisco Soto, deceased. That upon appeal from said board the said claim was confirmed in this court, and that the said case still remains in this court upon the question of settling the final survey thereof. Your petitioner respectfully shows, that in the month of October last she sold one-half of her interest in said rancho to Crayton Winton, for the sum of twelve thousand dollars, and shortly before said sale was consummated, upon the papers and records in said case now in this court being examined, it for the first time came to her knowledge that her name had been so as aforesaid omitted in said petition, and that of "Margarita" erroneously substituted, and also that said Ana Maria is therein erroneously named Anita. Your petitioner states that there is not and never has been any such person as "Margarita" Soto, daughter of Francisco Soto, deceased; that at his decease, said Francisco left him surviving seven children, of whom your petitioner is one and said
Ana Maria another, and that all the others, except your peti-
301 tioner and said Ana Maria, are correctly named in said petition for confirmation, so as aforesaid presented to said board of land commissioners. Your petitioner, in consideration of the premises, and of the cloud which will otherwise be cast upon her title, and upon the title heretofore held by said Ana Maria, prays that an order be made by this hon. court, directing that the name of your petitioner, Trinidad, be substituted in said petition and proceedings for the name of Margarita, so erroneously therein inserted, and also that the name Ana Maria be in like manner substituted for

the name Anita, and for such further or other order as may be lawful and necessary in the premises.

TRINIDAD SOTO.

STATE OF CALIFORNIA,
County of Santa Clara, ss:

Trinidad Soto, being duly sworn, deposes and says, that she has read the foregoing petition, and knows the contents thereof, and that the same is true of her own knowledge, except as to the statements therein made upon information and belief, and as to those matters she believes it to be true.

TRINIDAD SOTO.

302 Subscribed and sworn to before me the 1st day of December, A. D. 1862.

CHARLES N. SENTER,
Notary Public.

STATE OF CALIFORNIA,
County of Santa Clara, ss:

Barbara Soto, being duly sworn, says that she is the mother of said Trinidad, and knows the contents of the foregoing petition, and that the same are true. That the true names of the children of said Francisco and deponent are therein correctly set forth, and that there is not and never has been any one of said children named "Margarita," but that name has been erroneously used in said proceedings instead of Trinidad, which error this deponent prays may be corrected as asked for by the foregoing petition. And furthermore, this deponent says, that in said petition the name of her daughter, Ana Maria Soto, who is now married to Manuel José Encinas, is erroneously given as Anita, which last-mentioned
303 name is the diminutive of Ana, and is the familiar name by which said Ana Maria is known in deponent's family.

BARBARA C. her + mark DE SOTO.

Subscribed and sworn to before me this 1st day of December, A. D. 1862.

CHARLES N. SENTER,
Notary Public.

Endorsed: Filed March 5, 1863.

W. H. CHEVERS, *Clerk.*

Order as to names of claimants, Trinidad and Ana Maria Soto.

U. S. district court, northern district of California.

THE UNITED STATES *vs.* BARBARA SOTO *& al.* } No. 300.—San Lorenzo.

On reading and filing the petition of Trinidad Soto, one of the claimants in the above stated case, and also the affidavit of Barbara

Soto above named, annexed to said petition, and it appearing
304 to the court that in the proceedings in this case the said Trinidad has been by mistake named Margarita, and that her true name is Trinidad Soto, and also that in said proceedings another of said claimants has been improperly named "Anita," and that her true name is Ana Maria Soto ; and on motion of Robert Simson, the attorney of said claimants, it is ordered that in the proceedings in this case, the name Trinidad Soto be substituted for the name Margarita Soto, and the names Ana Maria Soto be substituted for the name Anita Soto, and that all proceedings be amended and corrected accordingly in this case.

OGDEN HOFFMAN,
Dist. Judge.

Endorsed : Filed March 16, 1863.

W. H. CHEVERS, *Clerk.*

305 *Stipulation admitting papers in No. 29.*

United States district court, northern district of California.

THE UNITED STATES
vs.
BARBARA SOTO *& al.* } No. 300.—Rancho of San Lorenzo.

It is stipulated that all testimony or documentary evidence in the above stated case, and in land case No. 29, entitled "The United States vs. Guillermo Castro," which bears upon or relates to the common boundary line or lines of division between the respective lands or ranchos claimed in said cases respectively, be admitted and considered as testimony and evidence in both of said cases, subject to all legal exceptions save those provided for by this stipulation.

ROBERT SIMSON,
Attorney of Claimant; Guillermo Castro.
WM. H. SHARP,
U. S. Att'y.

Endorsed : Filed March 16, 1863.

W. H. CHEVERS, *Clerk.*

306 *Opinion modifying survey.*

United States district court, northern district of California.

UNITED STATES
vs.
BARBARA SOTO.

The principal objections now made by the U. S. to the official survey were urged on a former occasion to this court, when the cause was before it on appeal from the board of land commissioners.

They were then elaborately argued and fully considered, and a decree was entered declaring the boundaries of the tract confirmed, as seemed to the court to be just.

The exceptions filed by the U. S. seek to reopen the controversy thus settled and determined.

It is enough to say, that, independently of the fact that the matter may well be deemed res adjudicata, I have seen no reason to doubt the entire correctness of the opinion heretofore delivered by this court.

The location of the eastern line of the official survey is also objected to. But the location of this line was in like manner discussed
307 in the opinion heretofore delivered and fixed by the decree.

Even if the question were still open, I confess myself unable to discover even plausibility in the objection taken by the U. S.

The grant and diseño of Soto appear to have embraced a tract extending from the San Lorenzo to the Alto creeks, and from the beach to the cuchilla or crest of the hills—"excepting the number of varas granted to Castro in said lands."

The grant to Castro for his rancho of six leagues was subsequently issued. His land is described as bounded "by the rancho of Soto on the side next the main road, from the arroyo del Alto to that of San Lorenzo, the said Soto having been considered the owner of the part next the beach."

The main road referred to runs from one brook to the other, across the plain from north to south, and at no great distance from the base of the hills.

From the language of Castro's grant, he might well have contended that his western line was to run along the road, and that Soto's land was to lie to the west and between the board and the beach.
308 But Soto's grant, which was prior in date, embraced the land from the beach to the cuchilla or crest of the hills, excepting a few hundred varas already granted to Castro. A dispute therefor naturally arose, which, on the complaint of Soto that Castro was encroaching on the plain, was settled by the parties in presence of, and with the sanction of the governor.

The boundary thus settled is thus described: "Commencing at the sanjon or rivulet where it is parallel with the southern side of Castro's house, measuring 600 varas towards the main road and from their point of termination, taking a straight line to the arroyo de San Lorenzo, and recognizing for the boundaries on the other side of the rivulet the margin or base (orilla) of the hills, measuring 10 varas up on the hills."

The rivulet referred to is a small stream from the hills, and flowing in a westerly direction into the plain. On its northerly side is the house of Castro, and on the southerly side that of Soto; these houses are nearly in the same straight line; the rivulet is about mid-
309 way between the Alto and the San Lorenzo.

As a line run along the base of the hills would barely include Soto's house within his grant, and barely exclude that of Castro, it seems to have been agreed that from the rivulet, where it is parallel with the southern side of Castro's house, a line 600 varas long towards the west, or in the direction of the road, should be run, and thence to the San Lorenzo. The house of Castro would thus be left

more than 600 varas within or to the east of his boundary. The remaining or southern portion of the line, namely, that on the other side of the rivulet, was to be run near the base of the hills but 10 varas upon their side, in order that the house of Soto might be at least that distance within his boundary.

Such seems to me the clear and unmistakable meaning of the agreement made by the parties, and on no other supposition could it have effectuated its object, viz: the adjustment of a dispute between the parties as to the line constituting the eastern boundary of one and the western boundary of the other.

The testimony of the neighbors, particularly that of Guil-
310 lermo Castro, "shows," as observed in the former opinion of this court, "that the location, as determined from the description in this agreement, in no respect differs from the line as understood and recognized by the parties themselves and their neighbors." The official survey has followed this line, and in my opinion should not be disturbed.

It is objected on the part of the claimant that the southern line as surveyed does not conform to the line passing from the Alto through the rodeo to the beach, as described in the grant and decree.

The line of the official survey has followed the boundary of the rancho of Vallejo, the claimant's colindante on the south as established by an official survey, which has been finally approved and which has been embodied in a patent.

The grant to Vallejo is the elder; his northern line, as laid down on the diseño, is indicated by an inscription on it of its magnetic course.

This line has been followed in the survey and patent issued to him.

It is unnecessary to consider how far the patent thus issued to his neighbor would be conclusive on the claimant, if the grant to
311 the latter were the elder of the two, and if the location of Vallejo were evidently beyond the limits of his grant; for in this case the grant to Vallejo is the elder, and the land patented to him is evidently within his exterior boundaries, as shown by his diseño.

I think, therefore, that the younger grantee has no right to insist that his land shall be surveyed so as to overlap his neighbor, and that the location of the dividing line between them by the proper authorities of the U. S. is final and conclusive on both parties, more especially as there is already included in the lands surveyed to Soto the full quantity of one league and one half, granted to him by the former government.

By a stipulation filed in this case and signed by the claimants and intervenors herein, and by Guillermo Castro, it is agreed that a slight modification of the dividing line between the ranchos, as established by the official survey, shall be made.

The United States have no interest in the question.

A decree will therefore be entered, approving the official survey with the modification thus assented to by the parties.

312 Endorsed: Filed March 27th, 1863.

W. H. CHEVERS, *Clerk.*

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Friday, the 27th day of March, in the year of our Lord one thousand eight hundred and sixty-three.

Present: The honorable Ogden Hoffman, district judge.

Order modifying survey.

The UNITED STATES *vs.* BARBARA SOTO *et al.* } No. 300.

In the matter of the survey and location of the rancho called "San Lorenzo."

This cause came on this day to be heard, and was argued by counsel; and thereupon, and in consideration thereof, it was ordered, adjudged, and decreed, and the court doth hereby order, adjudge,
313 and decree, that the exceptions filed to the official survey in this case be, and the same are hereby, overruled. And it is further ordered, adjudged, and decreed that said official survey be modified according to the stipulation of the claimants and intervenors herein, and Guillermo Castro, settling by agreement the dividing line between this rancho and the rancho of the said Castro, as follows: Beginning at the point on the official survey of the said Castro marked Post S. L. No. 6, and running northwesterly along the line of course No. 9 of said Castro survey to the point of intersection of said line of course No. 9, with the middle line of the county road, which lands from the town of San Leandro directly to Hayward's; thence running along said middle line of said road northwesterly to a point in the middle line of a dry ditch which crosses said road a few rods northward from the northern line of lands of William Hayward, and runs from the plain eastward, or northeastward, to the San Lorenzo creek; thence running along the middle line of said ditch eastward, or northeastward, to the said San Lorenzo creek, and in all other respects the
314 said dividing line remaining as the same is represented on the official survey. And it is further ordered that the official survey in this case in all other respects be, and the same is hereby, approved.

And it is further ordered that the surveyor general cause the above specified modifications to be made, and that he return into this court a plat of said modified survey with as little delay as practicable.

OGDEN HOFFMAN, *Dist. Judge.*

Endorsed: Filed March 27th, 1863.

W. H. CHEVERS, *Clerk.*

(Here follows map, p. 314.)

315 *Stipulation that survey is correct.*

District court of the United States, northern district of California.

UNITED STATES
vs.
BARBARA SOTO *et al.* } No. 300.

It is admitted that the modified survey in the above case is in accordance with the decree of the court, and it is agreed that the said survey be approved.

September 3, 1863.

ROBERT SIMSON,
Claimant's Attorney.
W. W. STOW,
Attorney for Guillermo Castro and A. P. Grozan, his successor in interest.

Endorsed: Filed Sept. 14, 1863.

W. H. CHEVERS, *Clerk.*

316 *Final decree approving official survey.*

At a stated term of the district court of the United States for the northern district of California, held at the court-room in the city of San Francisco on Monday, the 14th day of September, A. D. 1863.

Present: Hon. Ogden Hoffman, district judge.

THE UNITED STATES
vs.
BARBARA SOTO *et als.* } No. 300.—"San Lorenzo."

This cause coming on this day further to be heard, was argued by counsel; and thereupon, and in consideration thereof, it is ordered, adjudged, and decreed, and the court doth hereby order, adjudge, and decree, that the modified survey of the rancho "San Lorenzo" claimed in the above case be, and the same is hereby, approved and confirmed as a true and accurate survey of the lands of the said rancho.

The survey hereby approved contained six thousand six hundred and eighty-five $\frac{85}{100}$ acres (6,685 $\frac{85}{100}$) of land, being the same made by
317 John La Croze, deputy surveyor, in October, 1858, and April, 1863, a certified plat of which was filed in the clerk's office of this court on the 26th day of August, 1863, which said certified plat is hereunto annexed as a part of this decree marked "Approved September 14th, 1863. Ogden Hoffman, dist. judge."

OGDEN HOFFMAN, *Dist. Judge.*

Endorsed: Filed Sept. 14, 1863.

W. H. CHEVERS, *Clerk.*

Order granting appeal in behalf of U. S.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Saturday, the seventeenth day of October, in the year of our Lord one thousand eight hundred and sixty-three.

Present: The honorable Ogden Hoffman, district judge.

318 THE UNITED STATES *v.* BARBARA SOTO *et al.* } No. 300.

This cause having come on to be heard on objection to the survey and location of the land heretofore confirmed to the said Barbara Soto *et al.*; and the court having by its final decree, made and entered September 14, 1863, approved the location made by the surveyor general of the United States for California, in pursuance of the order of the court; now, on application of Wm. H. Sharp, esq., U. S. attorney, it is ordered that an appeal in behalf of the United States from said final decree be, and the same is hereby granted, and that a certified transcript of the record in said cause be sent to the Supreme Court of the United States, without delay.

Endorsed: Filed Oct. 17, 1863.

W. H. CHEVERS, *Clerk.*

I, William H. Sharp, district att'y of the United States for the northern district of California, by virtue of the power vested in me by law, to wit, under the act of the Congress of the United States entitled "An act relative to appeals to the Supreme Court of the United States," approved August 6th, 1861, do hereby certify that the annexed and foregoing three hundred and eighteen (318) written pages, with the maps and diseños, also annexed hereto, exhibit a full, true, and correct transcript of the record and proceedings in the case of The United States *vs.* Barbara Soto *et al.*, and numbered three hundred on the docket of land cases in the district court of the U. S. for the northern dist. of California, and that the original papers and maps from which the said transcript has been made were duly delivered to me by the clerk of said dist. court, at my request, for the purpose of having them transcribed, and the same are of record and on file in the clerk's office of said dist. court.

In testimony whereof, I have hereto set my hand and private seal at San Francisco, in the district aforesaid, this 22d day of October, A. D. 1863. [SEAL.]

WM. H. SHARP,
U. S. Dist. Att'y, Northern Dist. of California.